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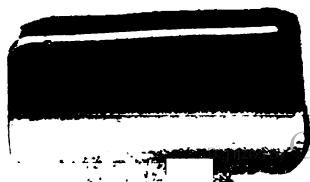
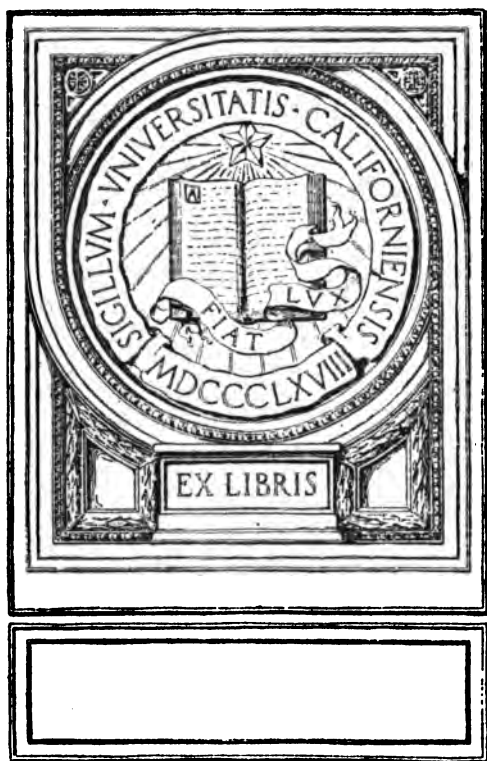
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AWAKENING OF --- BUSINESS ---



AWAKENING OF BUSINESS

AWAKENING OF BUSINESS

BY
EDWARD N. HURLEY
Chairman, Federal Trade Commission



UNIVERSITY OF
CALIFORNIA

PUBLISHED BY
DOUBLEDAY, PAGE & COMPANY
FOR
**THE ASSOCIATED ADVERTISING CLUBS
OF THE WORLD**
1916

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THE ASSOCIATED
ADVERTISING CLUBS OF THE WORLD

TO
THE AMERICAN BUSINESS MAN
WHOSE
ABILITY, HONESTY, AND INTEGRITY
I BELIEVE IN

355439

PREFACE

This book has a definite purpose. The time has come for stating some plain truths and for stating them in a plain way. The message of this book is not a message of congratulation, but of warning; not a message of criticism but of construction; not a message for the other man, but for you.

It is my hope that this book may assist business men in bettering business conditions and in working out sound methods of coöperation; that it will inform them of government activities in their behalf and bring about a closer harmony between them and government.

I assume personal responsibility for all the views expressed in this book. They are my individual views and in no sense those of the Federal Trade Commission.

EDWARD N. HURLEY.

Washington, D. C.

November 1, 1916.

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INTRODUCTION

WITH a statesmanlike grasp of world conditions, President Wilson said on September 2, 1916: "A new age, an age of revolutionary change, needs new purposes and new ideas. . . . We can no longer indulge our traditional provincialism. We are to play a leading part in the world drama whether we wish it or not. We shall lend, not borrow; act for ourselves, not imitate or follow; organize and initiate, not peep about merely to see where we may get in."

The necessity for revolutionary change in our business methods presses upon us from within and from without. Even before the war it had become evident that we need in this country improved conditions in our manufacturing and merchandising concerns, more coöperation among business men, and a closer harmony between government and business. The home market was no longer an adequate field for expansion of American business, and a number of our forward-looking men were considering the question of developing foreign trade. In the light of the experience of the last two years these conditions have been brought forcefully to the attention not only of the leading men of the business world, but of the small manufacturer and merchant and of the American

public. We are awakening to our opportunities and to the great responsibility which they bring.

From without we find that the great war in Europe has wrought there an industrial revolution. Its shock has jolted men out of old ruts of thinking and acting. It has rendered obsolete many methods of doing business. It has brought forcefully to every man and every woman in the warring nations the danger—the danger to each of them and to their nation—of industrial inefficiency, reckless individual competition, and absence of coöperation. They have come to realize that their industries, even more than their armies and navies, are absolutely essential to their personal happiness and national existence.

We are in danger of forgetting that the suffering of the warring nations has rewards which in the long run may give them mastery over those nations which with self-complacency cling to ideas and methods of a passing age. We are now prosperous, but unless this period of prosperity is made a time for reorganizing the whole fabric of our business system, we shall suffer seriously in competition with European nations when they are again upon their normal business footing. Now is an opportune time for removing from American business inefficient methods and all other elements of weakness.

Forces are gathering in the industrial nations of Europe which will lead to the fiercest kind of commercial rivalry after the war. In those foreign markets dominated before the war by European coun-

tries and now temporarily occupied by the United States, European business men will seek to retrieve the losses of the war. They will not yield to us without a struggle even a part of those markets. Nor will they leave our own market to our manufacturers. It is the richest of all and will present an opportunity to the European producer which he will not be slow to avail himself of. Our government can prevent unfair methods of competition, but it should not protect inefficiency nor can it relieve us from competition of nations desperate to restore their commercial power.

The nations of Europe are preparing for the commercial and industrial rivalry which will follow the clash of arms. It is said that behind the line of battle Germany has kept her industrial organization in the highest form of efficiency; that she has strengthened it by the removal of machinery from the rich industrial sections of France, Belgium, and Russia; and that she has improved it by invention and further coöperation.

Other belligerents are also increasing their industrial efficiency and coöperation. German methods are being studied in both France and England. In France the elimination of small-scale production both in agriculture and manufactures has been carried on rapidly, and while it will still remain a factor in the industrial organization of France, large-scale production will after the war be of more importance than it has been in the past. England—the

champion of individual enterprise—has during the war resorted to organization as a means not only of self-preservation, but of making her industry more effective in competition with other nations. Her business men have awakened to the urgent need of improving business methods. They are to-day reading more books on efficiency and scientific management than the business men of any other country. In this connection the comments in one of the recent government publications* in the United Kingdom is of interest. It says:

“We think it possible that the voluntary efforts of manufacturers in friendly union which enabled the problem of munitions to be rapidly solved may lead to a new kind of reciprocity between firms which will avoid the evils both of monopoly and of individualism. We think that as people have learnt to combine against the risks of fire or shipwreck without losing either initiative or freedom, so firms may come to look upon expenditure for research as a necessary kind of insurance. It is certain that the costs to be met will, on any adequate estimate, have to be counted not by tens of thousands nor even by hundreds of thousands.

“Quite apart from this general and fundamental point of view, team work is needed, because when we come to deal with the great industries which have an output worth many millions sterling a year and employ labour in proportionate amount, the problems to be solved are too manifold, and too complicated, to be dealt with by individual firms, or even,

*Report of the Committee of the Privy Council for Scientific and Industrial Research for the year 1915-16.

we may add, by a Government Department. The coal-winning industry, the textile industries, the steel industry, the great engineering and shipbuilding industries, the rubber industry, need research on a scale which calls for the financial and intellectual assistance of all parties concerned. When co-operation has done all that is possible in the common interest, there will still remain a mass of research work to be done by individual firms in their own interests, which will amply repay the cost and effort. . . .

“Research . . . will inevitably tend to bring industries into intimate relation, which are at present independent of each other, to transform what have hitherto been crafts into scientific industries, and to require co-operation not only between different firms in the same industry, but between groups of industries in a continuously widening series of inter-related trades. The forces which are at work in this direction have elsewhere found their expression in connection with the trust and the combine; but we believe, if the real nature of these forces is clearly grasped, that it will be possible to organize them for the benefit not only of the industries but of the nation as a whole.”

In some of the countries of Europe, particularly Germany, government has for many years taken a more or less active interest in the industries and commerce of their people. The war has caused this governmental attitude to be adopted by countries like England where it was not looked upon with favor before the war, and to be extended in those countries where it was already regarded as desirable. We must

be prepared to compete with European industries that are not only strengthened by efficiency in individual management and coöperative effort among business men, but backed by the resources of government.

International as well as national coöperation may be a factor in the after-the-war commercial struggle. The commercial preferences suggested by the Economic Alliance of the Entente Powers may not be practical in the face of the commercial dependency of European nations. The war, however, has abrogated the most-favored-nation treaties of the belligerents; and the measures of coöperation among the Allies adopted by the Paris Economic Conference last June may develop into an established policy. The nations now allied in war may become permanently allied in peace.*

From Colonial days down to the present time American genius has led the world in the invention and application of labor-saving machinery. As a result many of our factories show a lower labor cost than our foreign competitors in spite of the fact that wages are higher with us than with them. The time now has come when we must attack the problems of management, coöperation, and government in the spirit with which our mechanical problems have been attacked in the past. We as a people must awaken to the need of organizing our industries to meet the demands of the new era of business upon which we are entering.

*See "European Economic Alliances," published by National Foreign Trade Council, September, 1916.

PART I
HOW BUSINESS MEN CAN
HELP THEMSELVES

CHAPTER I

BACK TO FIRST PRINCIPLES

IF THE individual manufacturer's producing and selling methods are not efficient, neither coöperation with other business men nor with government will save him. Coöperation must not interfere with the individual's efforts to help himself. In fact, until our business men have raised their factories and selling agencies to the highest form of efficiency they are not ready for coöperation.

Intelligent cost accounting lies at the basis of efficient management. Men go into business to make money. Profit is the difference between cost and selling price. Goods cannot be priced properly unless cost is known. The lack of an adequate cost accounting system in a factory is like the lack of a compass on a ship. It makes it impossible to direct business intelligently and scientifically. At the present time it is estimated that 90 per cent. of the manufacturers of the United States are pricing their goods arbitrarily; either upon a basis which will get rid of the goods as soon as they have been manufactured or upon the basis of what their competitors are charging. While it is true that supply and demand

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are determining factors in the price of any particular goods once they are placed on the market, cost is the fundamental factor to which every manufacturer who expects to remain permanently in business must return as the only sound basis upon which to figure his prices.

The inadequacy of cost accounting systems in American factories is astonishing. Many of these systems are worse than none at all because they are misleading. Some have been built up in the manufacturer's own office and applied by a book-keeper who is not familiar with the principles which underlie cost accounting. Others have been designed by cost accountants who knew their business but who were so handicapped by the instructions of the manufacturer that they could not do justice to themselves or to their client.

A number of so-called systems consist of nothing but a series of records which have no relation either to each other or to the general books of the factory. They generally originate by the manufacturer asking for certain specific data. Provision is then made to keep this information. This request is followed by others and from the accumulation of information the manufacturer is led to the erroneous conclusion that he knows his costs. More clerical work is done than would be necessary to run an adequate cost system, and no real benefit is received. Other systems consist of a plan for keeping the actual cost of material and labor, but no provision is made for over-

head expenses and very often none for the materials wasted or lost in the process of manufacture. Still other systems consist of a test, the result of which is used for a stated period as a standard cost for like goods. This figure is often used as the cost of that article sometimes for years without any effort being made to verify its correctness.

To cite a few concrete cases of inadequate cost accounting methods: One firm which attempted to keep only the cost of labor made a practice of sending a mechanic and helper out to do repair work and made a charge, to cover expenses and profits, of \$1 per day over the wages paid the men. When the accountant who was working on a new system attempted to check up the cost figures with the books, he discovered that the actual cost of those two men was \$2.16 per day, exclusive of wages or any profit, so that this work had been done for years at a loss of \$1.16 per day.

A shirt manufacturing firm established their standard costs by a test and used this figure for nearly two years. When they finally checked up by means of a physical inventory a loss of more than \$20,000 was discovered. It was due to the fact that the standard cost fixed by the test was too low. The loss in this case was chiefly on materials.

A concern with a large pay roll made an attempt to keep labor and material costs, but did not try to check up with the general books. The men punched a time clock when they came in and again when

they left, and the pay roll was made up from these clock sheets. The cost figures were taken by a time-keeper. When the true cost of doing business was checked up, the time which was not accounted for was enough to pay the entire expenses of the cost department.

In another case an inadequate system failed to bring out the fact that the overhead expense was more than 60 per cent., while a similar plant in the same city, operating under practically the same conditions, but with a good cost system, was getting along with half that figure. Many instances might be given where the leak in non-productive labor alone due to an inadequate system has almost ruined the company.

A firm doing about \$100,000 a year kept the cost only of labor and materials. A new system was installed. It brought out the fact that 25 per cent. of the business was done at a loss, so that the profits of another 25 per cent. had to go to make up that loss, leaving the profit on only \$50,000 available for distribution.

Every article produced should bear its equitable share of all expenses, including overhead and selling expenses. There are manufacturers whose line consists of, say, six articles; on three they are making a profit and on three they are losing money, but claim that these three articles help to take care of the overhead expense. This method of doing business is most detrimental to healthy business conditions. Frequently one of these articles may be the sole prod-

uct of an individual who is striving and struggling to exist against a firm which is placing the same article on the market as a means to help take care of its overhead expense. Surely this is not wholesome competition. An adequate cost system would reveal this unhealthy condition and make a remedy possible.

No item of cost is so important and so frequently ignored as *depreciation*. The practice of not providing for it is one of the causes of many failures in the business world to-day. Charging off adequately for depreciation, both of plant equipment and merchandise, is of vital importance to every man interested either directly or indirectly in business. Where this is not done, the manufacturer is using cost figures which are too low as a basis for his selling price; the merchant carries his goods at a value which can never be realized; the banker is furnished financial statements for credit purposes in which inventories are overvalued; and the individual investor is often paid dividends which he thinks come out of profits, but when the crash comes he finds that they actually came out of capital.

The need of making proper provision for depreciation is more imperative to-day than ever before. Not only is competition keener and the margin between cost and selling price less, but changes in machinery, in the class of goods manufactured, in the styles demanded by the public, are growing more frequent and more radical every day. Often before

machinery and equipment wear out they are obsolete and useless.

Some years ago the practice among those who realized the necessity for making provision for depreciation of plant equipment was to make a charge to profit and loss at the end of the year. This plan might at that time have answered the purpose if it had been carried out, but many manufacturers would look at the profit-and-loss statement before making this charge, and if the year had not been a particularly profitable one, they would reduce the amount of the charge or even eliminate it altogether, expecting to make it up the following year. The inevitable result was that the amount set aside for depreciation fell short of the proper percentage.

Conditions to-day demand that depreciation be recognized as an element of cost and that provision be made each month to include it in the costs of that month. If a machine were of a type that would wear out in a month could any one say that the entire cost of that machine should not be paid by that month's production? The fact that a machine may be expected to last for ten years instead of a month is no reason why every month of these years should not pay its share of the cost of the machine.

A typical difficulty encountered in the effort to induce corporations to make proper provision for depreciation is the inclination on the part of the directors to reduce this and similar charges in a bad year in order to make a better showing, while in a

good year they never trouble to even up matters. There is no excuse for this practice. No board of directors has a right to deceive its stockholders by overstating profits. Even if it does make up the deficiency the following year, it has distributed as profits that which has not been and may never be earned. Unquestionably this practice has resulted in financial statements being prepared which show a satisfactory business condition when the reverse was actually the case.

Another fallacy commonly met with is the idea that depreciation does not exist in plants because they are always kept in the highest state of repair. It is argued that a machine appears and for all practical purposes is as good as new and that its earning capacity is still unimpaired. Its life, however, is shortening every year, and unless some provision is made for replacement a severe loss is being passed on to the future. Every machine, building, and apparatus, like every man, has a certain period of life, and no matter how much care you take of the machine or how much medicine you give the man, death is bound to come to both.

A change in the number of shifts, as two shifts in a mill instead of one, naturally increases the wear and tear on the machine and necessitates an increase in the allowance for depreciation.

A practice indulged in by some concerns which believe they are making proper provision for depreciation is to charge drawings, patterns, jigs, tools, and

dies to capital account. Such items as these are nearly always chargeable to cost of production. Even in the case of new items the expense in such cases is incurred for the purpose of enabling a special piece of work to be done, and this expense, therefore, is part of the cost of that particular work.

In the boot and shoe industry a peculiar situation exists. Manufacturers charge the cost of lasts—the life of which is relatively short—to expense and write off the amount the first year. This is a very conservative practice and more than makes allowance for the depreciation in the value of the lasts. According to the experience of a large shoe company, making more than \$4,000,000 worth of shoes per year, the life of a last is about four years, except in the case of the extreme style of lasts which are used only one or two years.

Other manufacturers take the ground that they have no depreciation to charge off because their property has gone up in value. This, too, is an error. Depreciation is not offset by appreciation. It takes place all the time and consists of the wearing out of physical assets. Appreciation, on the contrary, is an increase in the market value which may not exist when an effort is made to dispose of the property. Any attempt to recognize appreciation on the books simply means writing up profits not resulting from normal business operations.

Depreciation due to obsolescence of equipment is also an important item of cost to be provided for.

New inventions or new processes may at almost any time render a large part of existing plants in an industry useless. The manufacturer who ignores these improvements cannot compete with the manufacturer who by adopting them decreases his costs and improves the quality of his goods. In some industries provision should also be made for loss from accidents to machinery which happen with more or less regularity.

In the cement industry obsolescence is an important factor. The progress of the industry is so rapid that frequently machines have to be thrown out and new ones installed. Provision must be made for this in figuring cost. For example, a 60-foot kiln is used by an American cement manufacturer, and was stated by him to be a perfectly good kiln but to be entirely out of date on account of the fact that kilns are now built 200 feet long and rotary in type. He regarded his kiln as hopelessly out of date.

In the leather belting industry, where there are very few changes from year to year, and where the machinery and product are both staple, obsolescence is scarcely to be considered at all, but depreciation should be charged off and has been charged off by the larger concerns. A life of twenty years is given to many machines, while more complicated ones are figured at ten or perhaps fifteen years. One manufacturer, producing about one and a half million dollars' worth of leather belting per year, esti-

mates the life of each machine separately and charges off every three months for depreciation.

The scrap value of machinery has not been allowed for at all by many of the larger manufacturers. It has, of course, a certain value as junk after it has ceased to serve its purpose in the factory or mill. Not to allow for it is to err on the side of conservatism.

Depletion has to be taken into account in some industries. For example, the deposits of cement-making material are gradually being exhausted, although this is a very slow process. A manufacturer in this and similar industries should allow not only for depreciation and obsolescence, but also for depletion.

The depreciation of merchandise is another very important thing to be considered. It is nearly always necessary to reduce the selling price to close out the last of a line of goods. If a merchant buys 100 dozen shirts at \$12, intending to sell them at \$1.50 each, he knows that about twenty dozen will have to be sold at prices ranging from \$1.25 to \$1 or possibly even less. If he does not provide for depreciation his books will show that he is making 33½ per cent. on his business, until he has actually sold the entire line when the truth will appear. Merchants should also make an allowance for depreciation of their equipment.

Making provision for depreciation is not spending money. It is simply charging the purchaser for the

use of equipment and machinery as a legitimate part of the cost of production and putting the amount received in a drawer separate from profits. Not the manufacturer but the customer should bear this expense, and in the long run it is to his interest to do so. Finally, it must be said plainly that if proper provision is not made for depreciation true profits cannot be shown and the inevitable result will be that another supposedly successful concern has been added to our already long list of failures.

An example will serve to make clear the dangers of the lack of adequate accounting methods. We may take two manufacturers named Jones and Brown. They are in the same line of business and bank with the same banker. Jones keeps an accurate cost accounting system, charging off liberally for depreciation on his buildings and machinery. He charges his jigs, tools, dies, and patterns against the cost of production every month, or at least every quarter. His overhead is distributed fairly; he quotes a fair price on his product and his customers recognize that they are getting value received. He has a large bank account and is considered a conservative and substantial business man. Brown, his competitor, on the contrary does not keep a cost accounting system; does not charge off for depreciation except a small amount at the end of each year. Brown claims that his buildings and machinery are as good as they were ten years ago. He charges his jigs, tools, dies, and patterns to capital account and

considers them valuable assets. He figures that he has been quite liberal when charging off 10 per cent. depreciation on these items at the end of the year. He knows the total amount of the sales of all the products he manufactures, but he has not the facts to show the net sales of each product. He is a heavy borrower at the bank and the banker is probably loaning him money that Jones, his competitor, has on deposit. This furnishes Brown working capital, to do what? To continue to run his business in a slipshod, slovenly manner, to cut prices and ruin the industry in which they are both engaged.

It is a fact well understood among business men that the general demoralization in a large number of industries has been caused by firms that cut prices not knowing what their goods actually cost to manufacture; with them also the cost of selling, which is equally important, is almost lost sight of. Manufacturers who are cutting prices right and left, irrespective of their cost, are not honest with their customers, stockholders, or competitors.

If the small manufacturer or merchant, who to-day is refused credit by the wholesaler or manufacturer of raw materials, could present a sound statement of his assets and liabilities in a simple way, he would have no trouble in obtaining twice the credit, which means that he could expand his business.

Credit forms should be more generally used and sent direct to the firms from which the purchases are made. We have too much secrecy about our finan-

cial standing, too much reluctance about stating the facts. But the business man, large and small, may as well make up his mind to get his house in order, and to be able to present detailed data to his banker, wholesale jobbing house, and the producer of his raw materials. For in the future he will not be able to receive credit or loans unless he is not only sound financially but can show that he is conducting his business intelligently and knows why he is in business.

Ignorant competition is most dangerous to the development and success of our country. The Clayton Act and the Federal Trade Commission Act have no control over this menace. It is estimated that 90 per cent. of the manufacturers and merchants in Germany know absolutely what their goods cost to manufacture and sell. If you compare our figures, which show, according to estimates, that only 10 per cent. of our manufacturers and merchants know what it costs to manufacture and sell their products, you have one answer as to why Germany has been successful in developing such a high standard of efficiency in manufacturing and distributing its products, not only in Germany but in the markets of the world.

If business is to continue to be done under a system of competition rather than of monopoly, then fair competition is absolutely essential to sound business. There are certain unfair methods of competition used by competitors which the government

can stop. But the competition which is most insidious and dangerous is that which results from an inadequate knowledge of costs. As has been said, laws cannot reach this difficulty. It is a matter of internal organization of each factory, and until the matter is taken up enthusiastically by business men themselves, permanent results cannot be obtained.

The lack of adequate cost accounting systems covers up inefficiency in many of our factories. Manufacturers go along day after day including among their assets outworn patterns, machinery, and equipment which have nothing more than junk value. They disregard the gradual depreciation of their factories and do not realize that it is necessary to provide against the time when new machinery and new buildings will be required in their businesses. It is only a matter of time until such manufacturers come to financial ruin. No factory can continue to exist which does not provide for its own maintenance and perpetuation.

If this lack of system resulted merely in the elimination of the inefficient it might be regarded as an economic benefit. But in effect it reacts disastrously upon the efficient manufacturer. While the inefficient manufacturer is going down the hill to destruction he is cutting prices right and left and demoralizing the market. If the efficient man is to continue in business he must meet this reckless competition, and in doing so he very often is forced to sell at or below his cost. The demoralization thus spreads

throughout the entire industry and discourages the introduction of efficient and improved methods of business.

This condition very often results in widespread depression in the business world which inevitably reacts disastrously upon the public. Business slows up, labor is injured by inefficient methods or thrown out of employment, and all those activities of life which depend vitally upon our producing industries pass through a crisis. Banks suffer because of losses through bankruptcy and receiverships, fair competition is destroyed, stocks depreciate, and the whole fabric of business crumbles. The public in the end pays the cost. Just as any locality is seriously injured by an epidemic of sickness causing death and disaster, so in business failure the community suffers from business death and disaster.

CHAPTER II

FUNDAMENTALS OF COST ACCOUNTING

IN THE history of American business an excuse can be found for the prevailing lack of adequate cost systems in our factories. In a country like Germany, where competition is keen, manufacturers have learned from experience that if they are to exist at all they must know accurately what their goods cost and what prices they must charge in order to maintain and perpetuate their businesses. In this country, however, at least until recent years, profits have been large, in fact so large that a manufacturer did not need to concern himself about costs. He could quote his prices and feel reasonably sure that there was an ample margin between these prices and his costs. This condition was in part due to American tariff policies and in particular to the home market which offered a lucrative field for practically all goods which American manufacturers might produce.

This happy-go-lucky period of American business, however, is past. Manufacturers who began in business when the margin of profit was large and on that account succeeded in making fortunes, have seen their profits gradually dwindle until now in many cases their industries are earning nothing more than mere

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interest upon the capital invested. Competitors have sprung up in practically every line and the question of efficiency has been forced more and more to the front.

Even in our smaller manufacturing industries personal supervision of the plant is not always possible. The only reliable way in which an executive can determine the efficiency of his plant is through an adequate system of cost accounting which returns to him at stated periods statements which reveal in a moment the condition of his business.

New methods are being introduced and improved machinery installed in a progressive factory every day, with a view to reducing costs either by the elimination of waste or by increasing efficiency. It is impossible to know whether the introduction of these improvements is reducing cost unless the manufacturer knows not only what his total cost is, but exactly what items make up the total. Items of cost are frequently lost track of when the total is considered, while if the items were properly segregated it would be possible in many cases to reduce them materially, and in some instances to eliminate them altogether.

Not only manufacturers, but merchants, should have accurate cost systems. Forces are at work which will eliminate those who persist in inefficient merchandising methods. Competition in this field, as in manufacturing, is reducing the margin of profit and demanding as a price of survival the strictest

economy. A merchant also seriously limits the growth of his business if he does not have an adequate cost accounting system. He is unable, when seeking credit, to produce a financial statement which inspires confidence and upon which the banker can extend the full credit to which he is entitled. A merchant who can show progress will undoubtedly receive more consideration, other things being equal, than one who cannot. Even if he is successful, but cannot show it because of his slovenly bookkeeping methods, the bank will not consider him a desirable credit risk.

A not unimportant benefit derived from an adequate cost system is the saving of materials, labor, and expense. It guards against leaks all along the line. Employes are generally wasteful of materials. In most plants without a cost system the materials wasted would pay the expense of a cost system. Labor, too, is a source of loss where the men know that there is no incentive to keep a record.

No business man can know the costs of his business unless he employs competent bookkeepers and cost men. Considering the responsibility imposed upon these men and the bearing which their work has upon the success and future of business, they should receive liberal compensation. No cost system, however complete and comprehensive, will work itself, and any money spent in obtaining well-trained men to operate it will, in the long run, be a profitable investment.

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Cost consists of only three elements, viz., material, labor, and overhead expense, or, as it is sometimes called, "burden." "Burden" includes such items as insurance, taxes, repairs, indirect labor not chargeable to the product, and depreciation. Keeping a record of material and charging it properly affords no great difficulty, neither does the proper recording of labor. Overhead expense, however, gives difficulty due to several reasons. In the first place, conditions vary so much in the different industries that what is a direct charge in one industry may have to be treated as overhead in another. This prevents and makes undesirable any hard and fast rules defining overhead expense. It leaves it to the judgment of the manufacturer himself or, what is better, to all members of the industry through their Trade Association.*

The same difficulty met with in the definition of overhead exists to a very much greater degree in its distribution. Opinions differ very widely with respect to this largely because the distribution of overhead is a matter that must be determined for each plant separately, and the method must be governed by existing conditions.

The elements in an adequate cost system may be briefly summed up.

Material is of two kinds—Direct and Indirect. Direct material is that which forms part of some particular job and can be so charged. Indirect

*Pages 57-60.

material is that which cannot be charged to a particular job and which is more in the nature of general supplies. This class of material is sometimes termed expense material, as its ultimate destination is the expense account of some department. An adequate system provides for purchase records so that the purchasing agent can ascertain at any time from whom a certain kind of material was purchased, when the last purchase was made, the price, and terms. No material, either direct or indirect, should be given out by the stockkeeper except on a duly-authorized requisition, and these requisitions should be charged to the cost of production if direct or to the proper expense account if indirect.

Labor also is of two kinds—Direct, or, as it is sometimes called, productive, and Indirect, or non-productive. Direct labor is that which is applied directly to the job or product and can be so charged. Indirect labor is that which cannot be charged to any particular job or product, but must be charged to the expenses of some department. Direct labor should be charged to the cost of production, while the indirect labor should be charged to the proper expense account. The total of direct and indirect labor should check with the total pay roll, and the system should provide for periodical reports as to the amount of indirect labor, in order to insure it being kept at the minimum.

The final element of cost, overhead expense, is of two kinds—Factory Overhead and General Overhead.

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Factory Overhead is that which must be absorbed by the product while in process of manufacture, while General Overhead is not absorbed until the goods are marketed. An expense account should be opened for each subdivision of overhead. These should show the total amount and also the amount absorbed so that it can be carefully watched.

Cost sheets should be prepared showing the material, labor, and overhead costs of every piece of work so that comparisons may be made with the costs of previous work of like character.

Production statistics should be prepared showing the output per unit of time, and these may be used for comparative purposes and operate as a check on inefficiency.

The system should provide for permanent book inventories showing the amount of Raw Material, Work in Process, and Finished Goods on hand at all times. Monthly Statements of Operation and Profit and Loss should be made up so that the manufacturer may know each month where he stands, instead of having to wait until the end of the year as is the case with so many at the present time.

In suggesting improved cost accounting methods it is not intended to create the impression that all of our industries are inefficient in this respect. There are a few industries, and quite a number of individual concerns, which have thoroughly accurate and adequate cost accounting systems. The iron and steel industry, for example, has made remarkable progress

in accounting methods. The system is accurate and uniform not only in the mills of the United States Steel Corporation, but in the mills of the independents.

The excellent financial condition which the iron and steel industry is in to-day is due in a marked degree to the attention iron and steel manufacturers have given to this important question of business policy. They know definitely their true costs of manufacture and distribution. Probably there is not another industry in the United States where conditions in this respect are as satisfactory; where the destinies of the industry have been so wisely safeguarded by adequate provisions for exhaustion of capital both of plant and natural resources; and where so much attention has been paid to a study of operating conditions for the purpose of increasing efficiency and of lowering costs.

✓ CHAPTER III

BETTERING BUSINESS METHODS

IN THIS country we lack the desire to do things perfectly. Inefficiency is almost a national habit.

We have gotten everything easily in a new country abounding in rich resources, and efficiency has not impressed us as a necessary factor in our life.

This apparent indifference of our people generally to the question of efficiency has revealed itself in our producing and merchandising concerns. While our better known and more progressive businesses are actively engaged in bettering their methods, processes and equipment, only a small percentage of our business concerns generally have undertaken substantial improvement work. In the average small American factory much energy is lost through inefficiency at every step from the boiler room to the selling department.

Inefficient practices in our industries, in whatever part of the organization they exist, are almost invariably due to lack of adequate information. They exist both in the factory and in the selling and administrative branches of our businesses. The direct result of inefficiency is loss. In some cases this loss is due to a decreased production because

workmen are not equipped with proper tools, or are compelled to work under disadvantageous conditions. In by far the larger number of cases the decreased production is due to lack of proper instructions and the absence of any definite planning system. A piece of work is dumped into the factory and the foreman receives verbal instructions as to what is to be done.

A workman, for example, who has finished his job will come to the foreman and remark, "Say, Bill, what shall I do next?" and the answer is, let us say: "We've got an order for five keys $\frac{1}{4} \times 1\frac{1}{8} \times 4$ inches long. You'd better get on that." He goes to the material pile and picks out a piece of steel which may or may not be the best size and also may not be the proper kind and proceeds to make the keys. Very likely he will not have the proper cutting tools. He will waste time running around the shop hunting for them or in regrinding others which should have been in proper repair. When the job is done, he probably has some material left over, and since this is only a small piece, it is thrown on the scrap pile. At the end of the day he makes out his time card and *guesses* he put in about three hours on that job, and *guesses* how much material he used, and after the office has *guessed* how much should be added for overhead, the price is named. Through inefficiency, either the customer has paid too much, which will eventually result in the loss of trade, or if the price does happen to be right from the market standpoint,

the shop has lost the value of both the wasted time and wasted material.

Still other losses may be due to the absence of proper planning and routing. Work may be done on a machine which is not adapted for that kind of work while another which is well fitted for it stands idle. A plant may not be well balanced, that is, it may have too much of one kind of machinery and not enough of another. This condition is bound to cause a great deal of idle time.

Machinery should be so arranged that in carrying material no unnecessary work is done. One manufacturer, for example, had three machines side by side and the work had to go through all three. Number one machine was fed from north to south, number two from south to north, which made a very short carry, but number three was also fed from south to north, compelling the operator to carry the work the full length of the machine or about thirty feet. When asked why he did not turn the machine around the manufacturer said that the pulley ran the wrong way. He never thought of twisting his belt in order to reverse the direction of the pulley. When told to do this he wanted to discharge his foreman for not telling him about it.

One machine in a series may be smaller than the rest. In that event the larger machines are worked only to a part of their capacity. Another fact, too often overlooked, is that many machines cost more per hour than do the men who operate them.

As a result of this oversight, machines are often allowed to stand idle while the employes are going after material or grinding tools. There is also a great deal of time lost in many factories by requiring the foremen or men to do clerical work such as making reports. Reports could be better and more quickly made and at less cost if a clerk were stationed in the factory for that purpose.

Many manufacturers take the unsound position that the machinery is there anyway, and that since they have not enough work to keep it busy all the time, there is no real loss if it is idle part of the time. At some time during the year, however, there is enough to keep it busy, and inefficient practices which may not cause a serious loss in dull times will become a habit which will cause serious loss when the plant is running full. The belief that this habit can be changed when busy times come has been proven false so often that it is hardly worth discussing.

In some cases where a concern maintains a planning department and operates a cost system, thereby running the factory in an efficient manner, losses may creep in due to the inefficiency of the selling force. The salesmen may be selling a fair amount of goods at a reasonable cost but may not be pushing the most profitable lines. This fact will not be brought out unless an analysis is kept showing just what is being sold.

In one case a salesman was supposed to be a very valuable man because the volume of his sales

was large and his selling cost low. An analysis, however, showed that 75 per cent. of his sales consisted of a staple article on which there was a very small profit so that instead of being one of the most efficient men they had he was just the reverse. Loss also occurs from a bad arrangement of sales districts, which increases the salesmen's expenses and decreases the number of customers on whom they can call.

Coöperation between the salesman and the officers of the company will increase efficiency in salesmanship. Salesmen in many instances do not have the support of their officers, and without it it is a hard matter for a salesman to go out and do big things. The salesman is quite frequently turned adrift to make good. He is not in direct touch with the president, the manager, or the local sales manager of the company and if the sales do not come up to the mark they will say, "Get rid of this fellow—he is no good." This is one of the greatest mistakes in business to-day—this lack of coöperation between officers and salesmen. Every salesman needs the direct coöperation and support of his superiors, from the president down.

I remember working as a salesman twenty-five or thirty years ago for a man in Philadelphia, who invariably wrote me a letter every week complaining about my work. I gave him the best that was in me, and still he found fault. This attitude takes the heart out of a salesman. It is like going into battle

—soldiers will follow a general who is full of encouragement and enthusiasm. He may not be as fine a general as some other, but he will accomplish much more because he has his men believing in him and working for him.

The typewriter business in the United States is a regrettable but typical example of inefficiency in handling goods. As a general proposition it may be said that it costs to-day as much to sell a typewriter as it does to manufacture it. Overproduction and the resulting reckless competition have produced two evils—price cutting and “skating.”

Manufacturers make prices which will get the business. Many large buyers get their typewriters below cost. Contracts contain provisions in which the manufacturer agrees to keep machines in repair. Expensive repair departments are kept up. Machines are sold at a nominal figure to schools teaching typewriting. The most dangerous phase of competition in this business is the handling of second-hand machines. Second-hand machines are taken back at unprofitable figures. Probably no company to-day makes money on these transactions. Lack of uniform methods in handling and crediting second-hand machines has resulted in the practice known as “skating.” If a salesman finds a prospective buyer who is not willing to pay the price of a new machine he suggests in his zeal to make a sale that this prospective purchaser buy a second-hand machine, or a “skate.” This can readily be done at the many

second-hand stores found in all American cities. No matter how worthless this second-hand machine may be the salesman offers to take it in a trade for a new machine allowing, of course, much more for it than was paid. If the buyer is familiar with the game, he will get the salesmen of different companies bidding against each other for his old "skate," and drive a hard bargain with one of them, which leaves the typewriter company with little or no profit. Typewriter companies under this and similar coercion from buyers are often paying more for a second-hand machine than the cost of building a new machine. Such competition benefits no one. It demoralizes the industry and ultimately reacts seriously on the public.

Unfair buying is closely related to and frequently the cause of unfair selling.

Considering American industry generally, loss due to inefficiency also takes place in the administrative branch of our factories. Many purchasing departments are doing their work without adequate information and consequently are not obtaining the best results. Many have no records of previous purchases. The result is that much time is lost trying to locate the best source of supply. Higher prices are paid than are necessary. A follow-up system is lacking. This means delay in the arrival of goods with added expense to the factory and increased dissatisfaction among customers due to broken promises. Executive offices in business are

often not properly handled. High-priced executives are overwhelmed with a mass of detail which should be attended to by clerks.

It is a hopeful sign of the times that many of our business men are improving machinery and equipment, bettering their organizations, and seeking to secure coöperation between management and men.

The first step necessary to stop losses due to inefficiency is, as has already been pointed out, to discover them. An adequate cost system will do this. The plant should, then, be arranged so that there will be the minimum of lost motion. Materials must move rapidly and easily. Proper internal transportation facilities should be provided. They will cut down the time and cost of handling materials and products. Machines should be rebuilt and feeds and speeds changed in order to get the full output of work from the investment. A planning system should be installed in every factory. Foremen will then know not only what is to be done but where and on what machine; the employes will be properly organized and materials properly routed and delivered when and at the place wanted. In this way the next job is planned for every machine, not after the employe has finished his work but while he is doing it, so that as soon as he finishes one job he need not be idle while the foreman hunts around for something for him to do. The "job ahead rack" should never be empty.

Proper tools should be accessible to every workman

and they should be kept in good condition. Machines should not stand idle while the workmen are sharpening tools.

Spoiled goods should be watched for and steps taken to prevent the same error from being repeated.

Modern storekeeping methods should be introduced. They will keep track of materials used and eliminate waste. They will prevent unnecessary capital from being tied up in raw materials, work in process, and finished goods.

Operating costs may be reduced by making a detailed analysis of each operation with the view to simplifying it and by giving full instructions to the workmen of the best methods of doing the work.

Interest should also be taken in the welfare of the workers by improving their conditions and by giving the laboring man an opportunity to share in the profits and to buy stock in the company.

In the field of standardizing products, processes, and raw materials much has already been accomplished.* Economy in production and continuity of operation are both served by judicious standardization. Better materials and more efficient workmanship are made possible by it. It reduces costs. The consuming public also shares the benefits by not having to pay for a wide and unnecessary variety of products and materials.

Such improvements as have been mentioned cannot help but reduce cost and thereby confer a benefit

*For examples, see page 55.

not only on the individual business man but on the country as a whole. Every man in the country shares, to a greater or less degree, in every saving just as he does in every loss. The ultimate consumer is the one who pays for everything, and since the price he must pay under competitive conditions is necessarily governed by the cost, any steps which reduce that cost are bound to be reflected in the selling price.

Unfortunately these improvements have not been adopted by the greater number of small manufacturing concerns in the United States, and when attempted at all, have too frequently been of a very superficial character. In most of our smaller factories there is an enormous waste of time and effort, through machines being run far below capacity, through machines being badly arranged, through defective operating organization, through poor cost accounting methods including storeroom and purchasing systems, and through inadequate methods of securing coöperation between management and men. Too many of our plants are over-equipped and under supervised.

Many suggestions have been made by writers and lawyers of note, by captains of industry and legislators, prescribing different remedies for improving business conditions. There is no one remedy that will give relief to all our ills. What will help one industry may injure or kill another. But there are a few fundamental principles upon which may be

based the diagnosis and treatment of ailments of industry and commerce.

In last analysis success in business depends upon the intelligence of the individual manufacturer. If he does not understand both the details and the broad aspects of the industry of which he is a part, he cannot expect to be successful. American business men do not realize the value which trade journals and technical magazines may be to them in increasing the efficiency of their factories and in giving them a broad and comprehensive view of their business. Our foreign competitors read almost every article published upon their business with great care and thoroughness. Many of them have duplicate copies of their favorite trade paper sent to their homes so that they may read them away from their business without being disturbed. Many foreign manufacturers contribute articles to these journals on phases of the business with which they are most familiar. Such articles are bound to be helpful and have a constructive effect. Our trade journals and technical papers are the best in the world and they should be encouraged and supported by our business men. Copies should be placed where employes can see them and they should be urged to read and study them. These papers are preaching the gospel of sound business on practical lines and are helpful not only to business but to the country as a whole. If the suggestions made by them in the past had been followed by our business men it would not be necessary at this time to point

out some of the fundamental weaknesses in American business.

We all know that lumping all business together the real need is for better business methods. We must get down to the hard facts of business, to learn precisely what they are, where the weaknesses and losses exist, and practise the same thoroughness which characterizes trade and industry in Europe. To be progressive manufacturers we must be improving our methods of production, changing our designs to meet the new conditions both at home and abroad, and always endeavoring to adopt some new method that will reduce the cost of operation in every part of the business.

CHAPTER IV

MERCHANDISING

ONE of the most important problems of modern business is proper methods of merchandising.

The keen competition of the present day has rendered obsolete the old method of waiting until a customer comes in and selling him what you have in stock. Salesmen no longer are able, by means of a dinner or an evening's entertainment, to induce a merchant to stock up with a line of goods which may or may not be easily sold, but which represent the largest profit to the salesman.

No matter how efficient a factory may be, no matter how low the prices a merchant may pay for his goods, without proper merchandising methods success cannot be attained.

The first step in merchandising is to price the goods properly, and to do this a modern system of accounting is necessary. The system must show the purchase price of the goods delivered at the store and also the expense of doing business, which must be added to the purchase price before the selling price is determined.

The next step is to get the product known, and this step requires advertising in some form. While in-

judicious advertising results in loss, judicious advertising means a larger output and greater profits. A merchant should be sure of his supply before stimulating demand. He should live up to his advertisements and never claim that he will do a thing and then fail to do it. Above all, he should never misrepresent the goods or their true value. It is comparatively easy to cause the public to lose faith in your advertisements, but it is almost impossible thereafter to regain their confidence. Without that confidence even the best-devised campaign will fail to produce desired results. The buyer of to-day knows more about the goods he purchases than ever before. He knows their quality and their worth.

Some advertising campaigns have proven unsuccessful because the attempt was made to cover more territory than the funds would permit with the result that the goods were only half advertised. If the advertising in such cases were done in a more limited territory the results would be very much better.

The next step is proper presentation of the goods. This requires proper, attractive, and careful packing. Some of the most meritorious goods ever advertised have failed to sell simply because they were not put up in an attractive form or were carelessly packed. In a retail business the appearance of the store itself is also a matter of vital importance. The way goods are displayed has a very decided effect on the volume of business done. Goods should be arranged so that they can be readily found when wanted rather than

piled anywhere and everywhere, obliging customers to wait while a clerk hunts all over the store for the desired article, sometimes saying they do not have it in stock and losing the sale when actually the article wanted was in the store. We have all met the old-time merchant whose standard remark when asked for something was, "Well, I did have some of that somewhere but I can't just put my hands on it right now." His day has gone. We have no place for him in the modern business world.

In lines of merchandising where seasonal goods are carried those appropriate for the season should be given the place of honor in the store and staple goods placed in the rear.

A good appearance of the store has another desirable effect on the business which is generally overlooked. It is one of the items taken into consideration by a number of credit men when determining the line of credit to give. Credit men know that the merchant who arranges his store properly is very much more apt to be successful than the one who pays no attention to this matter, and they act accordingly. Some credit men go so far as to insist on salesmen reporting on this from time to time.

The cheapest thing in the world is courtesy, and it brings a larger volume of profit than any other factor in merchandising. Some business men think that this applies only to the salesman who comes in personal touch with the customer, but this is not the case. Instances are numerous where a little courtesy shown

in the tone of a letter has made a good customer. Cases are even more numerous where a discourteous letter has resulted in the loss of profitable business. It is utterly impossible entirely to avoid disagreements with customers, but a disagreement properly and courteously handled does not necessarily mean a loss of that customer's business. But if it is not handled properly, not only that customer is lost, but feeling aggrieved, he is very likely to advertise the fact that the firm is not treating its customers fairly. A reputation of that kind will make it very difficult for salesmen to get business. It is not necessary in order to avoid that reputation to be weak-kneed and allow every claim made by a customer. Unfortunately some men exist who think they have done something smart when they obtain some allowance to which they know they are not entitled. The majority of business men, however, are honest, and whether the claim is a just one or not, the customer thinks it is and feels aggrieved. Courtesy and tact, therefore, are a necessary part of successful merchandising. This is particularly true in retail establishments.

The importance of courtesy in a retail store is shown by the steps taken by the most successful merchants to impress on their salespeople the necessity of it. They dismiss a clerk more quickly for discourtesy than for any other reason, and the result of their efforts is seen in any of our more successful stores.

A bad habit that some business men have fallen

into is disparaging the goods of a competitor. Whether the competitor's goods deserve the criticism or not, the effect is to cause the prospective customer to lose faith in the salesman's statements. His disparaging remarks have exactly the opposite effect from the one he desires.

Another point which must be considered is the relation of the bookkeeping department to the customer. It is an annoyance to receive a bill when payment has been made, or to be compelled to send one back for correction, or to receive one intended for some one else, or not to receive credit promptly when goods have been returned. Such matters as these should be carefully watched.

A great many merchants handling seasonal goods make a practice of carrying goods over from one season to another rather than close them out at a reduced rate before the end of the season. This practice invariably results in their being carried on the books at a higher price than they are really worth. Also the cost of carrying them, including such items as insurance and taxes, will add to their cost. Then, too, there is always the risk of a radical change in public taste which will render it impossible to market the goods at the price at which they could have been sold during the previous season. The merchant should take all these things into consideration, and in all cases where the goods are not staple he will probably find it is very much better to close out his odds and ends at a reduced price.

CHAPTER V

TRADE ASSOCIATIONS: THE MACHINERY OF COÖPERATION

A BUSINESS man should be interested in the efficiency not only of his own business but of his competitor's business. Rivalry in some lines is not inconsistent with coöperation in others. A proper balance of the two makes successful business. Too much of either leads to destruction. Rivalry without coöperation means reckless, destructive competition; coöperation without rivalry means price fixing—the dry rot of business, deservedly condemned by the law.

The state of mind which makes us fear to associate with our competitor and which makes us suspicious of him must go. It does not belong to the new era of American business upon which we are entering. Our competitor is not such a bad fellow after all. If we talk over with him once in a while the big things in our business, we will *hate* him less! We must realize that inefficiency in any factory in our industry is very likely to react seriously on us and on all others in the same business. The way to protect ourselves is not to cover up the weak or, if you please,

the diseased member of the industry by taking him into a combination; we have had too much of that. The way to protect ourselves is to help our competitor to become efficient; for industry, like a man, is reformed from within. It is the duty of each of us to preach as well as practise the gospel of efficiency and to coöperate and work with others to raise the standards of producing and selling.

Coöperation is the watchword of our day—coöperation among business men, coöperation between employer and employe, coöperation between business and government. We have seen that there is a field for individual effort on the part of manufacturers and merchants; there is an almost equally large field for associated effort. Trade associations and similar organizations are among the most hopeful agencies of efficient industry. Their field of activity should be extended and their work made more efficient.

It has been particularly gratifying to me, since coming to Washington as a member of the Federal Trade Commission, to find in President Wilson a man so fully in sympathy with every intelligent effort to solve the problems of business along broad and constructive lines. He is interested in all those methods which tend to increase the efficiency of American industry and which provide for more coöperation among business men, particularly among the smaller ones, and between associated business men and the government. In a letter addressed to me under date

of May 12, 1916, he said this about trade associations:

White House, Washington, May 12, 1916.

“Your suggestion that trade associations, associations of retail and wholesale merchants, commercial clubs, boards of trade, manufacturers’ associations, credit associations, and other similar organizations should be encouraged in every feasible way by the Government seems to me a very wise one. To furnish them with data and comprehensive information in order that they may more easily accomplish the result that they are organized for is a proper and useful Government function. These associations, when organized for the purpose of improving conditions in their particular industry, such as unifying cost accounting and bookkeeping methods, standardizing products and processes of manufacture, should meet with the approval of every man interested in the business progress of the country. . . .”

It will be of interest here to consider the present situation in our country as to trade associations. Trade associations are at the present time a considerable factor in the industrial life of the country.

The nature of the business organizations in a country such as the United States, with its extensive area and wide range of industrial activities, is varied. They include broad general groups as well as associated concerns in particular lines of business. Some of the general groups represent manufacturing, mining, farming, merchandising, and transportation interests.

There are about 7,000 of these commercial, industrial, and trade organizations. They include 2,500 chambers of commerce, commercial clubs, boards of trade, and similar promotive business organizations; 1,000 manufacturing and mercantile associations of a general character, comprising business concerns in a number of different industries, such as state manufacturers' associations, credit associations, advertisers' associations and the like; and more than 3,000 trade associations—groups of business men in particular manufacturing, mining, or merchandising industries.

The commercial club, the board of trade, the chamber of commerce, attempt to bring together business men in all lines for the many kinds of coöperative endeavor so necessary to the progress of a business community. The general manufacturers' or merchants' association or the credit association fills a similar need for the more restricted manufacturing and mercantile field. The trade associations embrace the most numerous and perhaps the most powerful groups of associated business men. They include manufacturers of iron and steel, millers, bakers, makers of machinery, farmers, lumbermen, coal men, glass manufacturers, piano men, cement makers, textile mills, and all the varied field occupied by industrial activity; grocers, druggists, ice dealers, coal dealers dry goods stores, grain dealers, and the whole long line of distributors, wholesale and retail, besides several hundred efficient farmers' coöperative

associations. Fruit growers and vegetable producers also have organized associations.

The advantages of organization, which have driven men in similar industries to come together for joint action, have united them more closely in their trade associations than in boards of trade or general manufacturers' associations.

Trade associations are national or state or local in the scope of their work. More than half of the 3,000 trade associations are local—that is, confined to city or county. Approximately 500 more confine their activities to a particular state. Some 200 extend their activities to more than one state, and about 500 others are national or international in their scope. Many of those which are national in name have members in a comparatively small number of states, due to the fact that the business in which they are engaged is restricted to a certain locality, or to the fact that only a few of the manufacturers engaged in the industry have become members of the association. In many industries, however, while the number of members is not large, the association includes the greater percentage of the industry, measured in volume of business.

Many of these groups have a wide range of activities, and the aggregate business which they represent runs into billions. The association movement is bound to be a most important factor in our country's development in the course of the next few years.

The membership of some trade associations con-

sists only of business units—companies or firms,—which count each as a single voting member, irrespective of the number of owners or officers. This is true for example in the Silk Association of America. In other instances, as the American Cotton Manufacturers' Association, membership is made up entirely of individuals in the industry. A single member may control several companies or a single company be represented by several persons who are members. In still other associations, such as the National Federation of Implement and Vehicle Dealers' Association, and the National Lumber Manufacturers' Association, the members are neither individuals nor business concerns, but associations, and the national organization is a federation of associations.

There are usually at least two classes of members in these associations: active and associate, and frequently, in addition, honorary members, embracing persons less directly connected with the industry.

These associations of various kinds bring business men together for the many sorts of coöperative endeavor so helpful in the progress of a business community. Chambers of commerce and boards of trade fill a need in every city or town. One important field of work which they should take up is the improvement of the cost accounting methods of local merchants.

Another class of organizations, of which the Illinois Manufacturers' Association and the National

Foreign Trade Council are conspicuous examples, exists not so much to promote the individual interests of their members or the interests of any one industry, as for the study of the economic problems common to all business, particularly those of foreign trade.

We have here the machinery of coöperation—several thousand associations of differing types of organization and varying fields of activities, but all organized for the same general end of advancing the business interests of the country. This machinery of coöperation, however, is far from perfect. Many boards of trade and chambers of commerce have no conception of their true relation to their community. Some industries, as, for example, the typewriter industry, have no trade associations at all. Most of the trade bodies which now exist could improve their organization and increase their membership to advantage. Before we can do constructive work we must strengthen and enlarge the trade bodies which we now have and organize others in those fields where they are lacking.

These associations supply the means through which business and government can coöperate. Industrial preparedness and the mobilizing of our industries in case of war can be accomplished through trade associations more quickly perhaps than in any other way. But even more can be done by them in promoting the activities of peace and improving our normal commercial and industrial life. In the

countries of Europe such associations in coöperation with their governments have been important factors in improving industrial conditions and particularly in extending foreign trade. There is no reason to believe that their experience is different from what ours will be.

There should be a greater degree of organization and mutual helpfulness in all lines of trade and industry so that American business may be welded into a commercial and industrial whole, in order that our people may be supplied promptly and at the lowest possible expense with the commodities needed for their material welfare.

CHAPTER VI

THE PRICE-FIXING BOGY AND ITS SUBSTITUTE

AN UNDERLYING fear lingers in the minds of some people that trade associations, if allowed to exist at all, will go too far. They assume that where competitors are allowed to meet and discuss the main facts of their business, they will inevitably discuss, perhaps in secret, those activities which are illegal. It is true that there have been associations which have violated the law and attempted to fix prices. The great majority of our associations, however, have undoubtedly been occupied in necessary and proper work.

Suppose that there are 500 trade associations organized for the purpose of improving the conditions in their industries such as standardizing their products, improving their cost accounting methods, and discussing their common problems. Suppose that ten of them take advantage of this opportunity and fix prices, which of course is illegal. Is there any reason why the government should condemn for this reason the 490 who are endeavoring to work out their managerial problems in such a way as to bring benefits to their business and to the country as a whole? It was once the policy of the government to devote most of

its efforts to opposing and ferreting out the methods of the ten and to neglect or condemn, without a hearing, the 490. The Federal Trade Commission is opposed to the ten who are violating the law and will proceed against them if their acts fall within its jurisdiction; but it feels that its attention should be given especially to the 490 and that it should assist and coöperate with them in improving their business.

I am heartily in favor of competitors meeting in trade associations when they meet for the purpose of improving their cost accounting methods, discussing better systems of standardizing their products and materials, and working out more efficient methods of producing their goods at the lowest possible cost, or any other questions that go to develop efficiency.

When trade associations meet for these purposes every member profits by it; every stockholder and employe is benefited. It is also helpful to our country as a whole. The government should encourage and assist the development of trade associations of this kind.

It is my belief that the business men of the country in trade associations are going to profit materially by coming in contact with each other, but I realize that possibly some associations through ignorance or design may take advantage and do things directly or indirectly that violate the law. I am not in sympathy with the class which knowingly resorts to these methods, and it is my hope that cases of this kind will be few and far between. Organizations of this

kind which violate the law are doing a great injustice to the honest trade associations and business men of this country.

We cannot develop efficient methods of manufacturing, which are needed so badly, and improve the conditions in our respective industries, if, when we meet in trade associations, our thoughts are not on improving our manufacturing methods and ascertaining our true costs, but on the question of fixing prices.

The method of increasing the sales of association members by getting trade away from non-members through questionable methods is pursued to-day less frequently than formerly. Associations of retail dealers which try to keep consumers from getting goods except through them, and to boycott manufacturers and wholesalers who sell to consumers, are becoming rare. Attempts of merchants' associations to say what shall constitute a "regular dealer," and to shut off supplies from others cannot be justified. Retail lumber dealers in some regions, for example, have denied the right of any one who did a contracting or building business, although he also kept a regular lumber yard, to be counted a "regular dealer"; and they have boycotted manufacturers for selling to such persons. They also have opposed sales by manufacturers to coöperative stores. Such practices have properly been condemned by the courts.*

*See *Eastern States Retail Lumber Dealers' Association vs. U. S.*, 234, U. S. 600.

A much more intelligent way of securing profits—for that is the end of all business—is to increase the total sales in the entire industry. The effort to increase total sales may take the form of coöperative advertising. The Southern Cypress Manufacturers' Association, for example, has spent thousands of dollars a year, for several years past, in newspapers and magazines and by circulars and booklets, in advertising the advantages of cypress lumber. Other lumber associations have had coöperative exhibits, including rooms or buildings made of the wood they produce, at expositions and elsewhere.

Those who seek to improve business by price-fixing, boycotting, and like methods, are approaching their difficulties from the wrong side. Improvement should begin by increasing standardization, unifying and making more efficient accounting methods, and establishing the costs of doing business, which will make obvious to the price-cutter the mistake of his method, not only for himself but for the industry as a whole. If industry generally is conducted efficiently and intelligently, the evil of price-cutting will be eliminated and with it the desire for price agreements or boycotts of so-called irregular dealers will also go.

Special commendation should be given to associations that are endeavoring to build up industry in constructive ways. The problem of industry is to change the form of the raw materials and put the product on the market at a figure adequate to cover cost

of production and cost of selling and to net some profit to the producer without charging the consumer an excessive price. Neither the individual manufacturer nor the Government alone can work out so successfully the many serious economic and business problems involved as can a group of associated producers laboring together in coöperation. These associations, when conducted intelligently and rationally, with the thought of bringing about improved business conditions, will do much to make it possible for our industries to compete in price and quality in the markets of the world.

Trade associations are business organizations and they are formed for business purposes. Where they have devoted themselves to increasing the efficiency of their industry by gathering and disseminating knowledge among their members and where they have sought the legitimate ways by which to coöperate among themselves and with others, they have succeeded and received the confidence of the government and the public.

I regard the American Iron and Steel Institute in many respects a model trade association. For practically half a century this institute and its predecessor, the American Iron and Steel Association, have worked for the betterment of the industry. This institute's committee on welfare work has assisted in improving the conditions of workmen. Its committee on improvement in methods has been a great factor in promoting the technical advance of

the iron and steel industry. Its committee on foreign trade relations has given a broad, comprehensive view of foreign trade. Its Year Book and statistical reports, nowhere surpassed for completeness and accuracy, have kept us informed on the technical and industrial development of the industry. In short, it has been the organization through which iron and steel workers have coöperated for mutual improvement.

One of the activities by which trade associations have brought about needed improvements in industrial conditions has been in efforts to standardize products, processes, and raw materials. Much has already been accomplished in this field, as may be seen from a few representative industries. In the implement and vehicle field, wagon wheels have been standardized from forty-one different heights to four, and standardization has been extended to the widths of wagon tires. In automobiles, standards have been adopted for horse-power rating, tube sizes, spark-plug shells, ball-bearings, and many other items—a most necessary and helpful advance in a new and rapidly growing industry, where endless confusion promised to result from a multiplicity of parts of varying sizes. The Association of Knit Goods Manufacturers adopted a scale for underwear sizes which is used at present by practically every maker of underwear in this country. This has resulted in preventing the loss formerly caused by wrong and uncertain sizes and has been of national help to both the dealers and the

users of the product. Uniform plans and specifications are being urged by architects and builders. The steel manufacturers issue booklets containing standard specifications for structural and boiler steel, steel rails, concrete reinforcement bars, and other products.

The standardizing of machinery, such as lathes, boring mills, planers, and other machine tools, making allowance for improved types, is under consideration as a next step. The Master Car Builders' Association has recommended standard specifications for freight cars. Standard freight cars, for example, mean that the shipper will be able to standardize the height of his shipping platforms and the rise of gangways, as well as the height of his trucks, with consequent reduction of effort and expense. This is only one of the many fields where standardization can effect great economies.

Drug associations have similarly interested themselves in standardizing drugs; millers in the uniform grading of grain and flour; printers in standard sizes and weights of paper, and textile manufacturers in standardizing colors.

And so it goes. The manufacturer has fewer sizes to order and to make, the man who supplies him with raw materials only a limited line of materials to keep in stock. Economy in production and convenience in buying are both secured by this means, and the consuming public shares the benefit by not having to pay for the wide and unnecessary variety

of products and materials manufactured and kept on hand.

The Federal Trade Commission will do all in its power to encourage these movements for standards in industry, many of which have been pushed forward to this present advanced state by progressive trade associations. Even with all that has been accomplished in this direction by collective effort, however, we have made only a beginning.

The compilation of statistics by trade associations has put into the hands of their members a great deal of valuable information regarding costs, volume of business, and production. The value of this information is unquestioned, but it would be very much more valuable if there was not such a great lack of uniformity in the methods in use by the various members of the associations. The main purpose of these statistics is to enable every member to compare the conditions in his business with the average for the industry and thereby keep his plant at a high state of efficiency at the lowest possible cost. If some are using one method of figuring costs and some another; if some are including items in cost which others are ignoring; if some are charging rent as expense and some are not; the difficulty of getting these various figures on a comparable basis can readily be seen.

The answer to this problem is uniformity in cost accounting methods and nomenclature. It is not possible to devise a system which will fit the business

of every concern in an industry to the most minute detail, but it is possible to determine what items should go into cost, and also to say at just what point they should go in. The main line of division of cost, that is between manufacturing and distribution, can be easily defined and this in itself is a great step. If the person compiling these data knows that manufacturing cost in each factory comprises exactly the same items as in all other factories the work of compiling data will be very materially decreased and the figures will be comparable, and therefore, really valuable.

Items of expense which were not common to all the members of the association would have to be provided for. For instance, if some members owned their plants and others rented, either the rent would have to be eliminated from the cost of those who rented or a proper amount would have to be added to the cost of those who owned. Another important factor is the difference of opinion in regard to the rate of depreciation, and no effort should be spared to induce all to adopt a standard rate.

Where it is desired to compare the cost of various operations it is necessary for the systems to be uniform in detail and for the distribution of overhead to be made in the same way. This is also true where several different products are made in the same factory.

Uniformity is also necessary in keeping statistics of production, and this information is fully as valuable

as comparative costs. These statistics are a great help to efficiency but naturally cannot be used to advantage unless the same basis is used by all.

Whole industries, in many instances, are suffering from a lack of knowledge of costs and lack of uniformity in cost methods. In such industries, trade associations can bring about better accounting methods through a study of that method of accounting which would be best adapted to the industry.

One of the great advantages which result from a system of cost accounting uniform throughout an industry is that companies in the industry may compare their costs readily and ascertain on what items such costs are excessive and where economies may be effected. One manufacturer with a lower power cost passes on his knowledge to other manufacturers in the same line; while another manufacturer gives to his competitor the results of his study of electric truck or conveyor costs for intra-factory hauling. This all produces more intelligent competition.

One of the newer plans to coöperate which can be made effective through trade associations is to have the accountants, bookkeepers, and cost men from the various competing factories form an organization for the purpose of discussing their methods of arriving at costs. Standardization of such matters as depreciation of belts and machinery can thus be properly determined. Such technical questions as whether jigs, tools, and dies should be charged to

capital account or whether they should be charged directly each month to the cost of production can be discussed and settled on broad lines.

Many large firms have expert cost men. If it were made possible for these men to come in contact with the smaller manufacturer, there can be no question but that the ideas of the former would impress themselves upon the latter, efficiency would be materially increased, and all the companies in the industry greatly benefited.

Economies in production, as distinguished from buying and selling, are promoted by many associations through technical discussions. The proportion of attention given by associations to such topics ranges through all degrees.

Credit bureaus, through which the members can profit by each other's experience with customers, are maintained by associations. Some have collection agencies also.

Coöperative buying of materials and supplies is perhaps commonest among agricultural associations, though it is occasionally found in other lines. The Wisconsin Pulpwood Co., for example, is a coöperative concern through which thirteen paper mills buy their spruce pulpwood. The National Association of Hosiery & Underwear Manufacturers has established a band-and-label department, to supply its members coöperatively with the special packings demanded by jobbers and large retailers.

Many associations have concerned themselves

actively with the cost of railway transportation. A considerable number have cheapened insurance for their members; some by starting mutual insurance plans of their own, others by making special arrangements with other associations or with regular insurance companies.

The various publications which many associations put out must also be regarded as contributions to the general good of the industry.

Bad practices have such a grip on some industries that no individual manufacturer can abandon them without placing himself at a serious disadvantage. In many cases these practices are not unlawful; in others they are, and can and will be reached by the Federal Trade Commission, or some other regulative body. But in all cases they are unethical and unsound and should be stopped. Here is a field of constructive work for trade associations, and some organizations have accomplished much in it. Coöperative effort is sometimes the only way by which an industry can free itself from bad practices into which unintelligent competition has led its members.

As the country has grown in manufacturing capacity, we have come to realize that the employees form a most important part of every successful establishment; that that management is successful which not only works out economies in production but which also has the real interest of its employees at heart. This is responsible for the desire to have as many of its workers as possible interested as stock-

holders in the plant. Without the hearty coöperation and enthusiasm of its men the best results cannot be obtained. Many corporations and factories are now raising salaries and wages or reducing hours without any request from their employes. These efforts are commendable and should be supplemented by other movements for the general welfare of labor, planned and put into effect by trade associations. The question of giving our workmen continuous employment can be solved and other plans for their welfare can be worked out successfully through trade associations.

Our labor problems could also be more intelligently settled if corporations involved in differences with their employes would bring before a board of arbitration a financial statement showing the true condition of the business. This would give the actual profits of the concern and afford a sound basis upon which to judge whether labor's share should be increased.

One of the great and crying needs among American business men to-day is a broad view of business in general and a comprehensive grasp of the needs of industry as a whole. Too many American manufacturers and merchants centre all their energy and attention upon their particular establishment and the work of making profits for it. Men at the head of factories need the point of view of what might be termed the statesmanship of business. They need to appreciate the fact that their plant is a part of a

great industry; that their individual welfare depends very largely upon the welfare and progress of the industry as a whole, and of industry in general. Whatever promotes the welfare of other concerns in industry and the welfare of that broad group of people which we call the public, is bound to react favorably on individual concerns.

CHAPTER VII

TRADE ASSOCIATIONS IN GERMANY

IN THE effective organization of business in Germany, trade associations occupy an important place. Our associations all too often contrast unfavorably with the strength and usefulness of the German associations.

There are more than 600 independent associations of manufacturers, producers, and business men in Germany to-day, and about 5,000 subsidiary organizations influencing the industrial system of the country.

From among the hundreds of independent commercial organizations I will discuss briefly only two: the "Association for Protecting the Interests of Germany's Chemical Industry" and the "Association for Protecting the Common Business Interests of German Electrotechnology." These two are typical of German coöperation and efficiency, and they represent two of the leading world industries of Germany.

The "Association for Protecting the Interests of Germany's Chemical Industry" is one of the most effective organizations in Germany. The interests of all the chemical trades are served by this one cen.

tral organization, with headquarters in Berlin. Its active members consist of 290 manufacturing concerns. It also has 138 personal members who are heads of manufacturing establishments. It has had a large part in bringing about a close alliance between the scientific laboratory and the manufacturing establishment in Germany. It has also been active and successful in representing the interests of the German chemical industry in the matter of customs tariffs, taxation of industries, negotiation of commercial treaties, classification of chemicals for freight rates, patent and trademark laws, and in labor legislation. It has associated itself actively with every phase of German commercial organization work, and has been an important factor in winning for the German chemical industry a leading place in international trade and science.

The "Association for Protecting the Common Business Interests of German Electrotechnology" comprises as members 125 of the largest firms in the electrical trade, including practically all the manufacturers of electrical specialties in Germany. This association is particularly active in the matter of exporters' complaints as to foreign customs tariffs. It also issues a list of foreign trade opportunities to its members and keeps in close touch with progress in electric street railways and plants in foreign countries, suggests new connections and good representatives to its members, and furnishes to foreign inquirers information on German sources of supplies. It

is also active in labor matters and patent legislation, and maintains an arbitration court for disputes among its members. Many other problems, among them being the official inspection of electric plants, questions relating to taxation, street lighting, and the like, have engaged its attention. It also studies foreign expositions and advises its members with regard to participation. Another of the diversified activities of the association is the conducting of a publicity campaign to popularize the use of electricity.

A distinct feature of the commercial and industrial organization of modern Germany is the close affiliation between chambers of commerce, trade associations, and the cartels. Most of the important large cartels and syndicates hold membership in one of the large trade associations. One of the strongest of these twin associations—The League of Industrials—for example, numbers among its members a great many cartels and gives special attention to cartel matters, maintaining a special section for them. Outside of the chambers of commerce, the three largest commercial associations in German commerce and industry are: (1) The Central League of German Industrials;* (2) The League of Industrials;† (3) The Hansabund.

The Central League of German Industrials is one of the leading organizations of German manufac-

*Centralverband.

†Bund der Industriellen.

turers and has a membership of about 200 associations and 600 individuals. It has exerted a powerful influence on German tariff, labor, and accident insurance legislation and on the negotiations of commercial treaties with foreign countries. In addition it has given special attention to fostering German export trade, has issued directories of German exporting manufacturers, and has encouraged participation in foreign expositions.

The League of Industrials is a similar organization for the promotion of German manufacturing interests. Like the Centralverband, its headquarters are in Berlin. Its membership includes more than 5,000 manufacturers and eighty associations. The latter represent 30,000 firms. For the purpose of furthering German business this League has given special attention to the suppression of unfair competition and was one of the principal factors in securing the enactment of the new German unfair competition law.

Recent press advices from Berlin indicate that the entire German manufacturing industry has been united in a single organization called the German Industrial Council. This Council is said to form a connecting link between the Central League of German Industrials, the great association of the chemical industry, and the League of Industrials. Its plan is to bring about a close coöperation of all these organizations in the recovering of Germany's lost foreign trade.

One of the most active and wide-awake commercial organizations in the world is the German Hansabund. It unites the lighter manufacturing industries, commercial interests in general, the artisans and the smaller agriculturists. It comprises more than 700 provincial, district, and local organizations throughout Germany, and almost 900 associations and other organizations are allied with it. It maintains a foreign section for the promotion of German export trade, with the aid of members resident abroad. More than 10,000 members were in attendance at a recent annual convention. Besides publishing an official organ, "Der Hansabund," it sends out to its members almost 70,000 confidential bulletins annually, and by means of numerous lectures and an enormous volume of literature carries on an active publicity campaign. One of the important results of its work consists in bringing about a closer alliance between German trade interests at home and German business men in foreign countries. It has a number of branches throughout the world which serve as active pioneers in extending German influence. Among the principles advocated by the Hansabund are: appointment to government positions for merit only; elimination of red tape in government business; importance of land and water transportation; penny postage, and low telephone and telegraph rates; appointment of energetic and competent consular officials who will do justice to the German commercial interests abroad; practical training for con-

suls; permanent and close relationship between the government and German export interests; standardizing international bills of exchange, patents, trademarks, and corporation laws; and an international court of arbitration in civil matters.

These three leagues, together with several other commercial associations, were instrumental in founding the "Permanent Exposition Commission for German Industry" in 1907. It coöperates with the German government to represent the interests of all German industries at foreign and domestic expositions. It aims to abolish participation in worthless or fake expositions, and to encourage German exhibitors to participate in such expositions as after thorough investigation prove to be of value. The commission has a special bureau for legal problems affecting the interests of exhibitors, and keeps in close touch with foreign organizations relating to expositions, particularly with a view to defending German industrial property in foreign exhibits. In the interests of German colonists at foreign and domestic expositions it maintains a special colonial committee.

Germany's world trade has been built up to a large degree by special organizations like the "German-Brazilian Association" and the "German-Russian Association for Fostering and Promoting Mutual Trade Relations." Prior to the outbreak of the war the latter included fifty-one chambers of commerce, twelve associations, and 340 individual firms.

It maintained a publication for members only, in Berlin. A Russian publication in Petrograd furnished information on trade opportunities in both countries, giving special attention to the needs of its members. It also maintained a department for the settlement of customs and freight difficulties and a collection and a translation bureau.

The "Central Society for Commercial Geography and Promoting German Interests Abroad" has a membership of 5,000. It promotes intercourse between Germans living abroad and those at home, and investigates prospects for the extension of German trade in foreign lands. It has an office for furnishing information to applicants who desire to settle abroad, and offers legal aid to Germans residing in foreign countries. The study of commercial conditions in all foreign lands and particularly of the colonial policies of foreign states, is part of the association's work. It has promoted participation in foreign expositions in Australia and South America, has sent floating exhibitions to foreign countries, and is affiliated with two similar German associations in Brazil.

A single powerful organization—the Deutsche Handelstag—binds the commercial and trade bodies of Germany together. Through it the business interests of the whole empire coöperate to further their common purpose. This solidarity is unquestionably one of the reasons why Germany has achieved supremacy in so many fields, particularly in foreign trade.

Germany's success as a commercial and industrial world power is due in a large degree to coöperation—coöperation among business men in their associations and coöperation between these associations and the Imperial Government. Her business men work together. Communities of interest exist between the small and big men of business. The strength that comes from unity has proved to be the backbone of Germany's industrial and commercial achievements—efficiency and strength.

German trade associations and cartels, it is reported on good authority, are now perfecting their coöperative machinery for the purpose of buying raw materials after the war.* European manufacturers have considered the appointing of single buying agents in the United States for the purpose of purchasing all the cotton and other commodities required. They contemplate playing one group of American producers against the other in order to decrease the price. European business men realize that their labor cost will be increased as a result of the war, and they are omitting no effort to offset this by economies in other directions. If Europe by coöperation can obtain American raw materials cheaper than the American manufacturer, as has been the case with copper, lumber, and naval stores, and may become the case with cotton, grain, and other products, the European manufacturer will have an advantage

*See "European Economic Alliances," published by the National Foreign Trade Council, September, 1916.

all along the line in selling his finished merchandise. His labor cost will probably be, in spite of the increase due to the war, lower than the American cost, his raw materials will cost less, and he will have the advantage of highly organized coöperation with his government, banks, and steamship lines, which business in the United States at the present time does not enjoy.

In this country we do not care to copy the methods of another people, but the activities of German trade bodies suggest many ways in which we can develop. Some lines of activity now followed by German trade associations would, of course, be contrary to our antitrust laws, but there are still many fields into which they have introduced effective coöperation which would afford legitimate activities for American trade associations. Our trade associations have neglected many of their opportunities, particularly those which relate to foreign trade. We must put our associations at a task which is admittedly too large for any one manufacturer.

CHAPTER VIII

COMMERCIAL EDUCATION AND THE NEW ERA OF BUSINESS

THE commercial outlook of our time ranges across the seas. Professional and business activities were once limited by national boundaries, but to-day the pursuit of any profession or occupation is likely to lead into the foreign field. Only political boundaries remain; economic and industrial frontiers have been swept away. The business man, more frequently than any other now, becomes a citizen of the world. One of the numerous economic changes effected by the present war is that almost overnight the United States has assumed a leading rôle among the commercial nations of the world. For good or ill we have irrevocably passed beyond our former limits, have allied ourselves with new interests, assumed new responsibilities, and are confronted by new problems intensely momentous in their bearing upon our whole economic future.

In view of all this the question arises whether our present commercial supremacy is based on a secure and permanent foundation. Are we to maintain our present position in the future and will we be able to gain additional ground? What foreign trade we

have—and we stand second among the nations in volume and value of our oversea commerce—is largely due to our wealth in natural resources and agricultural products. A smaller part of our export trade consists of finished manufactures, sold in competition with other industrial nations. For the foothold that our manufactures give us in the world market we should accord full credit to those great industrial enterprises which have marched far ahead of general opinion and government support in appreciation of the need for an outlet for the surplus output of American labor, inventive genius, and business skill.

•The creation of foreign trade for manufactured products is a difficult problem. A manufactured article never sells itself abroad as does a bushel of wheat. It must either fill a new demand or displace a like product from another country. The early detection of this new demand requires as much, if not more, skill and organization than does the attainment of superiority in quality over the rival foreign articles. Here is where the efficiency of industrial education becomes the supreme arbiter.

If our present lead is not to remain merely temporary but is to become permanent, the United States must equip her hosts of commerce and industry with the ingenuity to invent, the skill to adapt, the leadership to organize, and, above all, the intelligence to extend. Efficiency founded on intelligence must become the keyword of our business efforts. More than

heretofore we must direct our energies toward equipping the men who are to wage the future commercial battles of the world for American manufacturers with a training as good as, if not superior to, that possessed by our competitors. Here, above all things, preparedness is a prime requisite.*

Farsighted leaders among American business men have long ago realized that our facilities for commercial education and training are still in need of much improvement, and that much can be learned from our competitors in foreign countries in this respect. England realized this very same need some years ago. The growing displacement of English youth in the great business houses of London by French, German, and even Italian young men began to attract public attention. Finally, the London Chamber of Commerce took up the matter in earnest. Boards of Trade, teachers' conventions, educational and commercial associations joined in a popular agitation for a reform, with the result that the system of commercial education and training in vogue up to that time in England was reorganized from the bottom up.

France, likewise, for years past has given special attention to training its youth for trade with foreign countries.

Foremost, however, among the nations of the

*See Report of Committee on Commercial Education for Foreign Trade of National Foreign Trade Council, Proceedings of the Third National Foreign Trade Convention, p. 144.

world in this respect has been Germany. It has built up its whole commercial and industrial organization upon a comprehensive and broad policy of commercial education. Its marvellous trade expansion during the past two and one-half decades is in large part due to the systematic, theoretical as well as practical, training with which its commercial representatives are equipped.

The export business of German business houses, as a rule, is in charge of men who not only are experts in their special trade, but in addition possess a thorough general education, including a knowledge of the language and customs of the people with whom they have business dealings. A special style of schools of commerce, the so-called "Handelshochschulen," has been organized for this purpose. In 1914 they had an enrollment of about 6,000 students. It has been customary for graduates of these schools not to enter some business house in their native country immediately upon graduation, but to go to some foreign country first, and there study business in a practical way at first hand, and to familiarize themselves with the customs, language, culture, and life in general of the natives. There they have an opportunity to acquaint themselves at first hand with the economic background on which the commercial battles of the future will be fought out. Not in their home market, but in far-away China, in Turkey, in South and Central America will they have to meet their competitors, and a first-hand knowledge of these

foreign territories will serve them in good stead in their later business career. After having coupled a practical training of this kind with their previous school education, they finally, upon their return home, engage in business permanently. The success of this method of commercial training cannot be exemplified better than by the founder of the General Electric Co. of Germany, Dr. E. Rathenau, and the former Colonial Minister, Dr. B. Dernburg. Both of them as young men spent several years in our country learning American business methods, and are typical examples of this class of modern German business men.

Progressive statesmen in foreign countries have long pursued a policy of promoting trade and commerce by giving government aid in the form of traveling endowments for graduates of universities or commercial schools to go abroad and make studies of economic conditions and business opportunities that lie beyond their own shores. By this method the rising business men get accustomed to thinking and acting in terms of world intercourse, and become wide-awake, broad-minded, and wide-visioned leaders at home. Belgium and Japan have fostered this system for a number of years, and many of the representative commercial leaders of these two enterprising countries as young men served such a term of apprenticeship in foreign countries. From 1895 to 1901 Japan sent out 124 young men on missions of this kind to all parts of the world, the Japanese chambers of commerce supply-

ing them with either a part or the whole of their traveling expenses.

From a commercial point of view, the enormous demands of modern trade and the rivalry of foreign countries render the effective acquirement of living languages by young Americans a national necessity. An energetic beginning has been made in the United States in very recent years with respect to the study of the Latin-American languages. I have in mind, however, another field, equally as large and fully as promising for American enterprise to conquer, viz., Africa and the Near and the Far East.

Immense prospects and opportunities lie dormant there, and new demands are constantly growing up as modern civilization continues to gain a foothold among the millions of people living in the Orient. European countries have up till now virtually monopolized that trade. They went about it in a systematic way. Schools for Oriental languages were established by the various governments in Berlin, Vienna, Paris, and Vladivostok, which sent out specially-trained and equipped men to the Indian, Chinese, Persian, Egyptian, and Levant markets. The Russian government in 1898 established a special Oriental Institute at Vladivostok, where Japanese, Korean, and Chinese languages are taught, and the service rendered by this school has proved a powerful stimulus to Russian trade expansion in the East.

These schools offer primarily a commercial education. The large majority of the graduates are not

aspirants to the diplomatic or consular service, but enter upon commercial pursuits. As far as I am aware, commercial training for this promising field in the East seems to have been wholly neglected in our country up to the present time, and certainly warrants closer attention in the future if American trade seeks to expand eastward.

In conclusion I wish to emphasize once more what seems to me a vital requisite of a future *constructive* American trade policy. This is the need of active coöperation between the various agencies of our government and trade as well as educational associations for a vigorous and nation-wide campaign to increase our facilities for commercial education—a training that shall fit the men behind the mechanism of our industries to grapple intelligently and efficiently with the immediate and practical problems as well as with the larger aspects of international trade.

CHAPTER IX

FOREIGN TRADE OPPORTUNITIES AND THE PASSING OF OUR PROVINCIALISM

THE present European war has given us an unprecedented opportunity for developing our export trade. When peace is again restored we shall, for a few years, be the leading export nation of the world. Whether we retain this supremacy will depend largely upon the efficiency of our merchandising and industrial organization and the coöperation of our government with business. These opportunities for trade exist in Latin America, in the Orient, in Russia, and elsewhere.

A very substantial number of our industrial plants have increased their gross manufacturing capacity as a result of war business. Many of them have so quoted their prices, restricted their dividends, and written off depreciation, that much of the plant can be scrapped, after war orders cease or are filled, without affecting their normal prosperity.

But if it is possible to sell this increased production in new and permanent markets, both business and labor will profit. Export markets should, therefore, be sought for the excess in our manufactured products. The domestic market cannot absorb this sur-

plus immediately, nor can a permanent export demand for it be created overnight, and yet the possible disintegration of these plants, even temporarily, would represent a deplorable economic waste. Some hope for a solution of the immediate problem is held out by the demands, already being made, for aid in reconstructing the shattered industrial districts of Europe.

The conclusion of the war will bring with it the problem of reviving the industrial life of some 20,000 square miles in France and Belgium. A large part of this area is made up of densely populated and centralized manufacturing communities. In the eastern war zone, also, lie important industrial centres such as Warsaw, Lodz, Vilna, and others. Computed by the number of employes and horsepower active in all industries located before the war in what is now the war zone of France, it is claimed that about 40 per cent. of the French manufacturing industry fell into enemy hands. Included in this estimate were mines and quarries, iron and metal plants, agricultural and food production, the chemical, textile, paper, electrical, printing, clothing, and furniture industries, potteries, glassworks, tanneries, rubber factories, and factories for products made of straw, feathers, hide, leather, and hair.

Material losses in buildings, factories, and livestock destroyed in the war zone—depreciation of industrial plants and railways that have not been utterly destroyed, and machinery removed—must

be replaced immediately after the war. The loss of operatives in men means recourse to machinery. All signs point to a demand without precedent for machinery and construction materials, which must be satisfied before industrial activity in the war zone of Europe can be resumed. The industries of the United States will be called upon to assist in this rehabilitation of Europe and to supply in great measure the new machinery and materials required.

But this repair of waste, while profitable, is not the foundation for permanent export trade. In a measure we shall be arming our competitors. Like a part of the business in war supplies, it will be temporary in character—the outcome of abnormal conditions. We must look to other channels for our permanent export markets. Our chief efforts must be directed toward capturing our share of that foreign business which we can hold permanently.

Our Latin-American trade, and particularly our commerce with South America, has been made the subject of active propaganda in the last two years. In Mexico, in Venezuela, Central America, and in the West Indian republics, we are fairly well entrenched commercially, although there is still room for the expansion of our trade. With reference to the rest of our South American trade, it is enough to restate broadly the fundamental conditions under which this trade must be developed and held.

We must have in mind certain cardinal points when dealing with Latin America. One is the more

prompt and economical delivery and distribution of our goods. The shipping law paves the way.* We must face in all South America the thoroughly organized and old-established competition of Europe, and in the West Coast countries the increasing commercial activity of Japan.

We must cease to think of the ten South American republics as one entity, with climatic, social, and topographical conditions common to them all, with identical requirements, and with an economic development equally spread over that vast continent. We do not associate Alexandria in Egypt, or Tunis, with Johannesburg in the Transvaal, or Durban in Natal, and we must not confound Caracas in Venezuela with Buenos Aires in Argentina.

Our merchants must have agents who understand and speak the language of those countries; we must study the people, and cater to their wants and preferences—must manufacture according to their standards if this is necessary in order to hold their trade. We must acquaint ourselves with their commercial laws. We must make some concessions to the goods produced by their nascent domestic industries fostered and protected by certain Latin-American tariffs, and must expect to meet them as a factor in competition. We must learn something of their tariffs and customs regulations, or have representatives who are familiar with them, in order that we may manufacture, pack, and ship our goods to best advantage.

*Approved by the President, September 7, 1916.

Successful merchandising in Latin America, in short, requires a sympathetic appreciation of the needs of the people, and an accurate knowledge of the methods by which competition is carried on in these markets.*

Finally, we must leave behind us, definitely, the idea that these trade requirements are vexatious obstacles to be overcome. We must accept in a tolerant spirit conditions in South America as they exist. Instead of being impatient at ways different from our own we must learn to adapt our goods to their ways. Adaptation to these ways is simply a part of systematic business getting.

We sold \$10,165,769 more of goods in China last year than we did in 1910. In 1905, total imports of American goods into China amounted to \$27,884,518; in 1910, \$29,990,370; and in 1915, \$40,156,139. But the growth of our Chinese shipments has not kept pace relatively with those of other countries. Ten years ago we enjoyed 14 $\frac{2}{3}$ per cent. of the trade, while in 1915 we controlled a scant 9 per cent. In China we have had to meet the traditional prestige and influence of the British in Asia. This is backed by British banking organization in China, and supported by the British free port of Hong Kong. While the Germans have wrested trade from the British in part by extending long credits, few British merchants agree that this is a sound practice and it is a fact that many German

*See "Trade and Tariffs in South America," June 30, 1916, Federal Trade Commission.

houses have come to disaster through the extension of credits for longer periods than permit the purchaser to realize upon the goods thus obtained.

The European trading houses, located on the ground, at the big ports and well-chosen distributing points, also have been powerful factors in gaining Chinese commerce. Stability of quality in products sold the Chinese, and their identification in the minds of consumers by "chops" or trademarks, have played their part in holding Chinese trade for European manufacturers.

In the same field Japan looms large as an aggressive competitor. The distinguishing Japanese advantages of cheap labor, proximity to the market, shipping facilities, similarity of race, affinity in language, and political influence acquired in China, all have contributed toward winning for them a formidable position in the exploitation of the Chinese market.

We enjoy, perhaps beyond any other nation, the good will of the Chinese people, who recognize our disinterested friendship. We have goods which her people need and capital to develop her vast resources. For eighteen years we have had in our possession the means of creating an intimate trade relation with China—an outpost in the Far East, most favorably located for the storage of staples and supplies which are in constant demand by the Chinese. Manila is but 631 miles from Hong Kong, and its position is indisputably favorable for the creation of an Ameri-

can distributing centre for the Oriental market. Manila now has an excellent harbor and docking facilities.

Indirectly the present war has proven of great financial and social benefit to the Russian people as a whole, of whom there are 170,000,000. Even a slight increase in the consuming power of this large population will mean in the aggregate a vast increase in trade opportunities. The suppression of vodka has been reflected in increased savings by the population. Millions of Russian soldiers, through their service in a modern army and through their extensive travels in the campaigns, have come in contact with modern conditions, conveniences, and appliances unknown to them before the war. This will create lasting impressions, and after the war will spread over the empire a demand for many of these new conveniences and comforts. The war is proving a great educator to the Russian masses, as did our Civil War to the outlying agricultural districts of the United States.

Before the war 30 per cent. of the products purchased by Russia from the United States and 20 per cent. of the products purchased by the United States from Russia were handled through German commission houses in Berlin and Hamburg. We now have an opportunity to increase our trade. Buying and selling direct with Russia will save commissions, reduce the costs, bring the business men of Russia and the United States into closer contact,

and above all aid in establishing a more permanent reputation for American goods. American business has no greater trade opportunity to-day than the one presented by the Russian Empire. It should be remembered, however, that in the past the trade between Germany and Russia has been complementary. Russia supplied raw materials and Germany exported manufactured articles to Russia. Economic inter-dependence may overcome even the prejudices of war.

In development Russia is growing toward a condition, with the advantage of population in her favor, that our own country typified not so very long ago. Russia offers attractive opportunities for us in several directions. To-day she possesses all the natural wealth that distinguishes our own country. Much like our own land, and in greater measure even, Russia dominates a vast continental area. Capital is needed there. The Siberian steppes have been compared to our own western plains. It is claimed that American products can be shipped economically from our North Pacific Coast to points in Siberia as far west as Lake Baikal, through Vladivostok, over the trans-Siberian railway, in competition with goods shipped from Europe. This accessible territory is as large as that portion of our country lying between the Mississippi River and the Pacific Coast. This vast area now is the least populous section of the Russian Empire, but has all the potential wealth of a large part of our farming section.

Our material development was measured by the increase in population and investment of capital. On the first Russia need not wait, and investments will be followed by the never-failing trade movement. This opportunity should not pass unperceived. There are manufacturing plants, railways, public works, and utilities to be built, waterways and harbors to be improved, mines and oil fields to be developed, and the more immediate wants of a population nearly twice as great as our own to be supplied.

Russia will no doubt continue a tariff policy of protection after the war. But her immediate need for revenue to meet her war obligations and interest argues against prohibitive measures in this direction. Russia, too, must find an outlet for her many raw materials now under embargo, and the shipment to us of hides, calf and goat skins, flax, furs, carpet wools, beet seed, licorice root, and old rubber, all needed by us, must create a reciprocal demand for American products. At the present time our leading exports to Russia are agricultural implements, raw cotton, machinery, locomotives, cars, and copper.

The lessons which the European War has taught the American people make practically unnecessary any extended argument to prove the advantages of foreign trade. The European War did more than many years of work by students of foreign trade to convince the American people that foreign trade is a necessary part of their material prosperity. It is valuable from the public point of view. The rapid

expansion of our foreign trade in 1915 enabled the United States, without financial embarrassment, to purchase \$1,500,000,000 of American railroad securities owned abroad. These vast investments were turned back to us in payment of our phenomenal export trade of that year.

International trade is, in the last analysis, barter. Whatever goods or services we purchase abroad must be paid for in the long run either by goods, services, or gold. The American people spend every year vast sums of money for services rendered by foreigners—for shipping, for banking, for artists and musicians, and for foreign travel. We also import coffee, sugar, and other tropical products, hides and skins, rubber, tin, sisal for binder twine, nitrates for fertilizer, and a great variety of manufactured products.

Export trade is particularly valuable to business itself. It is a stabilizer of production, a means of keeping factories running to their capacity, a reducer of cost of production, a provider of steady work for men at good wages, a sheet anchor in time of local depression. These are advantages which every manufacturer in this country should realize.

If a manufacturer sets out to get and keep an export trade large enough to take 10 or 15 per cent. of his manufacturing capacity, and if he does not let a temporary advantage in the home market lead him to turn a cold shoulder to his foreign customers who are looking to him to supply them regularly, his factory will run more steadily, his over-

head will be distributed over a larger production, and his costs will go down. He will have more leeway for making improvements in equipment and processes, and he can turn out better goods at lower prices. If bad times come in the United States, his competitor who has stuck to the home market is certain to be harder hit than he. His 10 or 15 per cent. of export orders at prices which do not suffer from the local slump will help him through the industrial crisis.

Foreign trade also stabilizes businesses which are subject to seasonal demands. Both Jones and Brown, we will say, are running cement mills on the Atlantic seaboard. Both have calculated on the fact that the construction season when their product is used here practically closes during the winter season. Down on the other side of the Equator, however, Argentine construction gets into full swing about the time the season in the United States is slack. Brown goes after this seasonal trade in Buenos Aires. If he gets it, he is undoubtedly in a better position than Jones, who stays at home. He has a market for his product all the year round, can keep his factory running full time. His production will be stabilized, which in turn will be valuable to all those in any way connected with his industry, and even to the public itself.

Commerce, if it is to be permanent, must include buying as well as selling. It must be reciprocal. We must be prepared to purchase raw and finished

materials from the countries we sell to. With the growth of our export trade must go the growth of our imports. Ships which leave our ports laden with our manufactured goods should return with full cargoes of the products of the countries with which we trade. In the very nature of things our trade expansion has for its complement the trade expansion of those peoples to whom we sell.

For many years it was common gossip that our consular service was not to be compared with that of our foreign rivals. Any American merchant or manufacturer who has traveled in foreign countries and come in contact with our consuls will agree that our consular service to-day is the best in the world. Improvement in the service has been rapid. Our consuls are painstaking, competent, energetic men, who are underpaid. It is my hope, as our foreign trade increases, that the efforts of these patriotic men who are living in foreign lands, away from their homes and friends, will be appreciated more by the American business men. I hope that they will urge Congress to give these men in our consular service adequate compensation, so that they may be able to live more in accordance with their station as representatives of a great country.

Both necessity and trade opportunities are making national exclusiveness undesirable. Until very recently most American business men have been provincial, and this narrow point of view is shaken off with difficulty. The habits of years make it

difficult for them to look at our business problems in their international setting. The great European War has served to educate American business men. Opportunities have been almost rudely thrust upon them by the suspension of production in Europe. Their chief value has not been the great profits which they have brought, but the change of viewpoint which they have created. Business men are rapidly shaking off the exclusive, narrow national attitude and becoming cosmopolitan. They are coming to realize that if American industry is to continue to develop as rapidly in the future as it has in the past, foreign markets will have to be found for our surplus production.

CHAPTER X

BUSINESS ORGANIZATION OF OUR FOREIGN COMPETITORS

IN SEEKING business abroad, American manufacturers and producers will meet aggressive competition from powerful foreign combinations, often international in character. In Germany, Italy, Switzerland, Holland, Sweden, Belgium, and Japan, and certain other countries where policies concerning industrial combinations are quite different from that of the United States, business men are much freer to coöperate and combine than in this country. They have developed numerous combinations often aided by their governments, which unite effectively their activities both in domestic and foreign trade. In England and Austria-Hungary, though freedom to combine is considerably abridged under the law, important combinations have also been formed.

In Germany prior to the war there were approximately 600 important cartels,* embracing practically

*While somewhat indefinite in meaning, a cartel may be described as a combination to control the market. A leading German authority speaks of cartels as "associations, founded by contract for certain periods of time, of independent enterprises belonging to kindred branches of industry, or of branches of industry with nearly identical interests, the individual members of the association retaining their independence but

every industry in the Empire. Many dominated the export trade of their industries and carried on vigorous campaigns to develop their foreign business, to prevent competition among German producers in foreign markets, and to secure profitable prices. The German dye-color industry, for example, operated as a unit in foreign trade under the leadership of two great groups of allied producers, the Badische group and the Höchst-Cassella, which were working under agreement eliminating competition between them for fifty years. The manufacture and exportation of electrical equipment has been made one of the bulwarks of German foreign trade by two great companies, the Allgemeine Elektrizitäts-Gesellschaft and the Siemens-Schuckert concern, with numerous subsidiaries at home and abroad working in harmony with each other. Half of the \$150,000,000 worth of coal and coke exported annually was sold by one central selling agency, maintained by the great Rhenish-Westphalian coal syndicate in Essen of which the Prussian Government mines in that district are members, and which embraces the bulk of all the coal and coke production of the Empire.

In France and Belgium, syndicates of iron and

joining for the purpose of regulating production and sales according to common points of view and in the common interest." The word "trust" usually, though not always, implies merger. Some cartels have made a considerable approach to merger but the name "cartel" is apparently not applied to any organization where the process is complete. Moreover, all cartels appear to be limited in time; the members can at some future date recover their complete independence if they choose.

steel, glass, and some other industries were strong factors in domestic and foreign trade. Silk-ribbon manufacturers of France and Germany conducted their export trade in accordance with a joint agreement. In Italy, Russia, Austria-Hungary, Switzerland, Sweden, Greece, Argentina, Chile, and Ecuador, central organizations unite the interests of producers in various industries such as coal, iron and steel, agricultural machinery, oil, sulphur, superphosphates, cement, matches, chocolate, embroidery, silk goods, watches, cotton goods, condensed milk, canned fish, currants, quebracho, iodine, and cacao.

In Japan, an export organization of textile manufacturers is rapidly obtaining the rich cotton goods trade of North China. The trade in tea is controlled by a nation-wide "tea-council." One great Japanese firm, which in itself combines manufacturing, mining, shipping, and merchandising enterprises, is rapidly extending Japanese trade in all lines throughout the Far East, and the Japanese Government is directly assisting the development of shipping, banking, and trading for foreign business.

British manufacturers have relied primarily upon foreign investment and an unusually effective merchandising organization for foreign trade which has been long established in foreign markets and given British products a superior representation there. But in various important industries they have gone much further. Most of the great coal export business, for example, is done by powerful organiza-

tions, combining mine operators, marketing companies, shipping lines, and foreign distributing companies. This gives British coal its grip on the rich South American market. The British cement manufacturers are united in a strong and successful union for the extension of their oversea trade. Recently a number of large British manufacturers of machinery of all sorts have formed the Representation for British Manufacturers, Ltd., an organization to handle their business in certain important foreign markets and to carry on an aggressive campaign for its extension. Similar organizations for foreign trade are in process of formation among other British manufacturers. In the electrical, cotton-textile, pottery, tobacco, wall paper, iron and steel, and various other industries, strong associations and combinations are important factors in foreign business.

It is against such organizations as these, uniting powerful groups of foreign concerns, backed by great banks, aided by railway and ship lines, and vigorously assisted by foreign governments that hundreds of comparatively small American manufacturers and producers must compete for trade beyond our shores. In some industries, moreover, our smaller manufacturers must compete abroad with great American companies having efficient world-wide selling organizations.*

*The foregoing paragraphs in this chapter are taken in substance from the report of the Federal Trade Commission on "Coöperation in American Export Trade."

Cartels in one form or another are highly developed in Europe. One of the most important forms is the selling cartel or syndicate. It has been highly developed in the iron and steel industry of Europe, and a brief discussion of the "cartelization" of that industry will throw light upon the method of organization adopted by our European competitors, particularly for the purpose of furthering their foreign trade.

We in the United States can learn many things which will assist us in developing foreign trade from the organization and efficiency of the iron and steel industry in the great industrial countries of Europe. It illustrates the effectiveness of coöperation in Europe, first between business men, second, between business men and government.

Only within comparatively recent years and since the introduction of foreign capital, has industrial organization in the form of cartels and syndicates developed in Italy. Among the better organized industries is that of iron and steel. In April, 1911, the six leading Italian iron and steel manufacturers combined and formed a syndicate known as the "Ferro e Acciaio" (iron and steel). The syndicate agreement was made for twelve years and the Ilva company, located in Genoa, was named to act as the common selling agency until December 31, 1922. The companies in this syndicate represented a total capital of \$26,800,000.

The iron and steel industry in France is one of that

country's most highly organized industries. Of the various syndicates of iron and steel producers in France the Comptoir de Longwy is the largest and best organized. It combines eighteen important firms. In 1909 its syndicate contract was extended for twenty years. Each month it fixes the prices of coke and raw iron. It produces about seven-tenths of the annual production of pig iron in France. In the interests of foreign trade it has established a special export organization which handles exclusively all the export business of its members.

Nearly all the leading Belgian industries are organized for export business, and long ago pooled their forces for the purpose of promoting their export trade. The steel manufacturers have a syndicate which is organized along the same line as the steel syndicate of Germany with which it has an agreement concerning Class "A" products (half products, railway line material, and semi-finished steel). It sells its products exclusively through a common selling agency located at Brussels. About three-fourths of its products are exported. In practically every branch of the Belgian iron and steel industry there are smaller cartels and syndicates through which the manufacturers work jointly for their common interest. It is said that the success of the Belgian export trade is in a large measure due to organization and coöperation among industrial producers.

A well-known English economist in a recent discussion of organization and combinations among

British iron and steel producers said: "In all the recent amalgamations *the main desire* has been to increase the power of resisting American competition, and the opportunity has been taken of raising fresh capital from the public for the purpose of extending works and modernizing plants."*

Although there is a tendency among British iron and steel manufacturers toward organizing concerns, to attain integrated production,† numerous combinations and trade associations also exist for controlling prices and production and combating foreign competition.

Among the larger combinations of steel producers are the Scotch Steel Makers' Association and the North of England Makers, which are especially concerned with steel plates. Both of these divide territory and fix prices. Other similar organizations are the National Galvanized Steel Makers' Association, the Tin-Plate Bar Combine, the South Wales Siemens Steelmakers' Association. The manufacturers of galvanized plates, which constitute one of the chief items of English steel exports, are also organized. As illustrative of the extent to which the British iron and steel trade has been syndicated I may mention the fact that the greater part of the annual output of ship and boiler plates, galvanized

*Italics are mine.

†As in the case of Bolckow, Vaughan & Co.; Guest, Keen, and Nettlefolds; Vickers, Ltd.; Sir W. G. Armstrong, Whitworth & Co.; Cammell, Laird & Co.; John Brown & Co.

plates, tin-plate bars, and rails, amounting to about three and one-half million tons, is controlled by combinations of manufacturers.

The German steel industry has few, if any, equals in effective organization. It offers a typical example of how an efficient system of industrial organization and coöperation with government assistance may succeed in building up a large national industry, shipping its products to all parts of the world.

The German Steel Syndicate* comprises thirty-one leading steel concerns including the well-known Krupp company. It controls about 90 per cent. of Germany's total steel production. In 1913 its production amounted to 6,339,000 tons.

In the production and distribution of Class "A" products (half products, railway line material, and semifinished steel) the syndicate has an almost absolute monopoly; in the case of Class "B" products (finished iron and steel manufactures) it did not control the distribution, but controlled the production up to the end of 1912. It has standardized the Class "A" products and maintains a large technical bureau to test the products of its members, and, if possible, to increase uniformity and to improve quality.

The syndicate maintains close relations with dealers' associations, and has been instrumental in the formation of a number of them. It has also organized its wholesale dealers in foreign countries. The total volume of business controlled by the

*Stahlwerksverband.

syndicate amounts to more than a billion marks per year. Its expense of distribution and administration has been reduced materially so that it now averages only seven cents per ton of crude steel. All orders placed with the syndicate are distributed among its members according to their shares of participation, but due consideration is given to the geographical location of the plant and to the preference of the customer.

The central or common selling agency of the syndicate is located in Düsseldorf. In connection with it a special clearing house for the export trade is maintained. In order to promote and regulate systematically the export trade and to equalize some disadvantages under which the German export industry is said to be placed, the syndicate, through the Düsseldorf office, computes, regulates, and pays export bounties which have averaged from ten to fifteen marks per ton of semi-finished steel during the last ten years. In this way it expended from 1904 to 1908 a total of seventeen million marks. Quite recently a plan has been worked out to organize a German steel alliance, which is to combine all products of the entire iron and steel industries of Germany.

Cartels are not limited exclusively to the large industries nor to the large manufacturers and producers. In a number of smaller industries, particularly among manufacturers of specialties, cartels have been the vehicle of building up a reputation

international in scope, where lack of coöperation for years retarded, and even made impossible, expansion at home and into foreign markets.

The majority of business men, economists, and statesmen of the leading commercial nations of Europe agree that where industries are efficiently managed and under proper governmental regulation, the cartel and syndicate have proved their desirability from an economic point of view and have enabled these nations to hold a dominant position in the world's markets. German and French writers point with pride to the success achieved by their respective iron and steel syndicates, and Dr. Helfferich, recently German Minister of Finance, stated a short while ago that the cartel organization has been the acme of German industrial enterprise during the last twenty-five years.

European iron and steel producers have repeatedly called attention to the fact that their system of coöperation has enabled them to prevent or at least to tide over more successfully periods of business depression and industrial crises.

Government investigations in several European countries furnish much evidence that many cartels have succeeded in reducing both cost of production and selling expenses. It is maintained that the cartel organization also enables manufacturers to equalize supply and demand, to adapt their prices to demand, and to regulate the prices of their products in accordance with the cost of raw materials.

While noting these opinions of business men, statesmen, and economists regarding the economic results of cartels in foreign countries and recognizing their effectiveness in competition in international trade, I wish it to be distinctly understood that I do not advocate combinations of that character in the domestic trade of the United States, except under such exceptional circumstances as are suggested in Chapter VI of Part II, and then only under strict government regulation.

But these forms of coöperation among our foreign competitors cannot be a matter of indifference to us. They not only are used effectively against those American business men who have the courage and initiative to undertake to sell their goods in foreign markets; they are also used against American business interests in our domestic market. Combinations of foreign buyers have on numerous occasions played domestic dealers one against another in order to depress American export prices and in the cases of timber, copper, and other natural resources their methods have led to serious sacrifices of our national resources.

At the conclusion of the war these methods of co-operation among business men in the countries of Europe will be used even more extensively than they have been in the past. England, like some lesser countries, has learned that if she is to succeed in trade against Germany, she must adopt the selling methods of her great rival. In the past she developed

a large foreign trade through financing foreign enterprises and for many years her business men obtained their orders through London banks. This required little if any trading or merchandising skill on the part of these manufacturers or merchants to secure business. On account of this advantage English business men did not develop well-organized selling businesses. When Germany went after foreign trade about twenty-five years ago, England felt that because of her great financial strength her business men were secure. She soon, however, learned the fallacy of this assumption. The German manufacturers and merchants, realizing that they could not sell all their products in the home markets, started after foreign trade, which England had controlled for so many years. Aided by the German Government, they put salesmen in the field in almost every country in the world and in a few years they were considered the chief rivals of England. This was all brought about by thoroughly efficient manufacturing and selling organizations.

If we wish to avail ourselves of the great trade opportunities which exist to-day in foreign markets, the business organization of our foreign competitors is an eloquent argument for coöperation in American export trade. To state the condition is sufficient to demonstrate that individually our smaller manufacturers, in many lines at least, cannot make headway against the combinations developed by our foreign rivals under the commercial policies of their governments.

CHAPTER XI

BANKING AND INVESTMENT ABROAD

BANKING credit is needed by American business men, not only in domestic but in foreign trade. In the past we have relied chiefly on foreign banking concerns. Economic changes, some of which had begun before and some of which were caused by the European War, are tending to lessen the dependence of American business men upon foreign banks for assistance in foreign trade, and to promote the establishment of a more adequate American banking system abroad. Before the European War certain American banks acted as correspondents in this country for foreign banks, and these foreign banks in turn rendered a like service for them in foreign countries. The number of agencies established by American banks abroad were fewer than the agencies established by European banks in this country. Gradually American banks were led to deal in foreign exchange, make collections for American exporters, maintain credits for American importers against which foreign producers could draw, and supply credit information. But in by far the majority of cases we were dependent upon foreign banks for information about conditions in foreign countries. While it is true that this

dependence can never be entirely removed, there must go along with the increase of our export trade an extension of our banking machinery into at least the most important trading centres abroad.

European banks, organized with foreign trade in view, have for many years rendered exporters assistance in other than mere banking lines. They have, for example, assisted in discovering new trade opportunities, negotiating foreign contracts, and encouraging investment in foreign enterprises. Foreign investment was prior to the war a large factor in developing German and British foreign trade. The increasing practice of providing in contracts that the materials used in enterprises financed by European capital should be purchased from the country supplying the funds has resulted in many closed markets, from which American merchandise is practically barred. In fact, one of the most prominent factors in the development of international trade during the last fifteen years has been the exportation of capital. It has created preferential markets and proved an effective factor in competition. As long as a large proportion of the foreign banking of the United States is entrusted to the banks of our over-sea competitors many of the advantages derived from the trade and investment activities of European banks will not be available to us.

During the period when the greater part of American exports consisted of food-stuffs and raw materials—things which practically sold themselves—the lack of

banking support abroad was not seriously felt. With the increase of the percentage of manufactures in our export trade, however, competition becomes keener, and the need of assistance from banks becomes imperative. Not only does the individual exporter need the benefit of American banking facilities, but we will profit nationally by seeking our share of the large revenue annually paid for banking service in international commerce. It is estimated that in 1912, the value of bills on London (at that time practically the universal currency of international commerce) was more than \$9,000,000,000. On every dollar of this amount some profit was made or some commission was taken by a London bank. London has for many years been the most convenient point for settling international accounts. The reason for this is that practically every one extensively engaged in world trade is either a creditor or a debtor there. This explains to a large extent the existence of numerous and powerful British foreign and colonial banks.

We did not awaken in this country to the importance of foreign banking until our steadily increasing foreign trade had exceeded an annual total of four and one-half billion dollars per annum. The outbreak of the European War disarranged the machinery of international exchange, which rested so largely upon bills on London, and gave to us the opportunity to establish in place of the sterling exchange the dollar exchange in the American trade formerly financed through London. As a result, dollar exchange has

been established to an extent which would have been impossible except for the war conditions. After the close of the war it will divide the field with sterling exchange and its security will depend upon the development of our oversea trade, our industrial efficiency, our investment of capital in foreign enterprises, and the position of the United States in distributing foreign merchandise in transit.

Partly as a result of necessity and partly through wise foresight on the part of business men, American foreign banking has been considerably extended since the war began. The largest national bank in the United States has established a number of branches in South America, has established new agencies in Europe, has taken over the one large American international bank with its branches in Central America and the Far East, and has organized a \$50,000,000 finance corporation, the purpose of which is to finance American enterprises abroad. The largest trust company is closely affiliated with a large and active foreign trading company. The largest private banking company, acting as agent for two of the nations at war, has handled hundreds of millions of dollars in war orders and built up an extensive export department. The largest American steamship corporation has recently been organized by banks. Throughout the country, particularly in the chief ports, banks have enlarged their facilities for export trade particularly in the direction of assisting manufacturers in foreign markets. The circulation of foreign trade

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information is an important function of certain banks and has stimulated others to acquire a familiarity with oversea conditions which will be useful to their customers.

Foreign loans have been floated in the United States to the extent of more than \$1,500,000,000. The greater part of these are governmental issues, but proposed industrial issues are under investigation in all parts of the world. The Federal Reserve Act has recently been amended* to permit national banking associations, under certain restrictions, to establish branches in foreign countries or to hold stock in banks engaged principally in international or foreign banking. Institutions which do not wish to incur the expense of establishing abroad their own branches will be able thus to gain direct foreign banking facilities and have an agency in foreign countries particularly devoted to their needs.

Great Britain has fifty-seven overseas banks, with numerous branches. Their capital and reserve at the prevailing rate of exchange is more than \$500,000,000. Excluding the Bank of England, this amount exceeds by 5 per cent. the capital and reserve of the fifty-six incorporated domestic banks of the United Kingdom with their 8,000 branches. We have *one* incorporated international bank, with a capital and surplus of \$6,500,000, a fraction more than one per cent. of the capital and surplus of the British international banks. Our national

*Amendment approved September 7, 1916.

and state banks, together with our loan and trust companies, represent a capital and surplus of \$3,401,822,606, a domestic banking wealth equal to that of all other countries combined. Thus it will be seen that our oversea banking capital, \$6,507,000, is to our domestic as one to 500, or one-fifth of one per cent.

As the wonderful foreign trade of Great Britain developed, British banks established branches and agencies all over the world. British foreign trade banks do business, for example, not only all over South America, the Orient, the East Indies, and all along the coast of Africa, but far inland as well. There are branches of British banks 300 miles up the Niger, 800 miles up the Zambezi, and 1,000 miles up the Nile. When Germany began her "drive" for foreign trade she established her own banks in South America, Africa, the Orient, and the Levant.

Much is heard of the necessity of extending long credits, and the trade which German merchants have captured from others by according more liberal terms of payment has been cited as a compelling argument. Many American manufacturers have required cash against documents at New York, or other shipping ports, but this does not mean that credit has not entered into the transaction. The credit may not have been extended by the manufacturer, but the export merchant or the importer in the country of destination has supplied it, and it has been paid for

and the cost of the credit has been included in the ultimate price.

Manufacturers cannot be expected to extend long credits on their own capital, for industrial success largely depends upon rapid turnover of capital. It must therefore be extended by banks. Excessive credits have often permitted commercial disaster. The safe rule for American exporters is to extend credit only for such periods as will permit the purchaser to realize upon the goods bought. These would range from three months, in the case of seasonal merchandise, to a year or more in the case of machinery for which the purchaser or those to whom he in turn has sold cannot pay until a crop has been harvested, or toll taken from the natural resources of the country. Sound and complete credit information is, of course, the essential basis of sagacious credit extension. The degree to which American bankers located abroad can helpfully determine the credit responsibility of an importer of American products, passing judgment not only upon visible assets, but upon character and enterprise, will go far to determine our success in export trade.

To establish foreign branch banks and agencies, to place at the disposal of our exporters American financial facilities instead of compelling them to depend on those of the British, German, and French, to give the necessary information of foreign credits, and to assist our exporters and importers to finance their transactions—all this is the province of the

American banker. That is his part in the organization of American business so as to hold and extend our foreign trade. It is not merely a duty. It is an opportunity. It means more business and more profits for our banks, and American banks in foreign countries logically are units in that American solidarity which is needed to hold our own in the world's trade.

The German banks identify themselves directly with corporations organized under their protection and retain an interest in them by insisting upon representation on directorates to safeguard their stockholders and depositors. This policy of the banks is a part of the coöperation which is the outstanding feature of German industrialism.

British banks also recognize the importance of financially assisting industrial enterprises, domestic or foreign, but they have handled this business rather through affiliated financial institutions supported by them when necessary. Although the banks frequently support new companies by offering their securities to the public, they do not identify themselves directly with them.

The British Companies Act of 1862, with the consolidation of its amendments in 1908, changed England from a nation of shopkeepers to one of stockholders. Unsparing and authentic publicity accompanies every step of British corporate formation, and after investment the individual stockholder is accorded further rights tending to protect him. The

promoter is the fiduciary representative of the company he promotes, is estopped from gathering profits not disclosed in the prospectus, and compelled under heavy penalty to reveal and particularize all material facts which prospective stockholders ought to know. Thus the banks automatically are protected in the performance of their share of launching new enterprises, foreign or domestic, under a national law governing the formation of corporations.

If American capital turns toward foreign investments, particularly in railroads and industrial enterprises, a flood of new securities will flow into the country and every issue should be safeguarded by complete and compulsory publicity. It should be unnecessary to point out that a fiasco or scandal in the marketing of foreign securities would seriously retard the development of the investing public's taste for and confidence in oversea issues.

CHAPTER XII

COÖPERATION IN AMERICAN EXPORT TRADE

NOWHERE is coöperation among business men and between them and the government more essential than in the development of our export trade. Throughout the world, American producers, individually, are obliged to cope with combinations of their foreign rivals who are not only permitted but encouraged by their governments to combine against American competition; and, individually, American producers are often obliged to sell to combinations of foreign buyers, equipped to depress the prices of their products.

Even in normal times our nation's business, if it is to continue to prosper, requires foreign markets for its surplus products. Other nations, however, have realized the value and the necessity of a foreign business and have organized to capture and hold it. They have learned that it is a bad policy for their citizens to compete with each other in foreign markets. Necessity has produced the foreign selling syndicate; has coördinated manufacturing, merchandising, banking, and transportation interests; and has led governments to support their citizens in efforts to further export trade. We are confronted with this condition.

Whatever we may think of it we cannot change it. If we want foreign trade at all, we cannot get it effectively by disorganized individual effort. Our chance to capture and hold our due share of the trade of the world will be helped by the new and even start which the war has given us, but we cannot achieve this end unless we are prepared to meet coöperation with coöperation—to permit a systematization of our own export trade which will match the effective, systematized industry of our competitors.

A perhaps equally pressing need springs from the condition under which leagues of foreign buyers, by playing one American producer against another, are able to depress the prices of our goods in the principal markets in which they buy. The president of the Amalgamated Copper Company has testified that in the ten years ending 1913, foreign buyers paid nearly a cent a pound less for American copper delivered at their own foreign ports than American buyers paid for it delivered in New York. This difference in the cost of raw material is said to be nearly equivalent to the cost of producing copper wire, so that the foreign buyer was able to make his finished wire at about the figure his American rival paid for raw material. Exporters of lumber and of certain other products derived from our natural resources have encountered the same consolidated buying.

Exportation of raw materials, other things being equal, is less profitable from a national point of view than export of finished manufactures. If our natural

resources can be purchased more cheaply by foreign interests than by Americans, the finished articles our rivals manufacture therefrom will have an even greater chance than lower labor cost now gives them in the contest for international trade. It is difficult to conceive any method except coöperation whereby the exploitation of the productive resources of this country by foreign buying organizations can be checked.

The antitrust laws of the United States are one of the causes of the lack of coöperation in American business. Many of the forms of business organization of our foreign competitors, if adopted by American business men in domestic trade, would be held to be in violation of Federal law. The Federal Trade Commission does not for a moment recommend the use of such organizations in our domestic trade. But the Commission believes that with our export trade the situation is entirely different. Doubt exists in the minds of business men, however, as to whether competitors may, under our present laws, coöperate solely for the purpose of developing foreign trade; and this doubt is such that few groups of business competitors will, so long as our laws remain unchanged, venture to risk capital in a coöperative enterprise to sell goods in foreign markets. In fact, bankers will not finance a project that is subject to the slightest question of illegality.

Before considering export coöperation among competitors something should be said of coöperation among

non-competitors. Our laws as they now stand do not prevent coöperation among manufacturers producing non-competing lines of goods. These lines may even be kindred. Organizations among non-competitors already exist in this country for the purpose of selling to foreign buyers.

One of the most successful organizations of non-competitors is selling paper, type, ink, printing presses, and other kindred products in Latin America. This company began in a small way about twenty years ago and under able management has grown to be a corporation with a million dollars of capital and one hundred stockholders. It has agencies or branch houses in all the important countries of Latin America.

The organization of this company is separate and distinct from the corporations whose goods it sells. It is not a mere agent in the sense of being subject to the will of the manufacturers who furnish it goods. It acts independently and makes and declines contracts in accordance with what it considers to be its best interests. Contracts are made with individual manufacturers, and fix the relationship between them and the company. These contracts run from five to twenty-five years. They give the selling organization the exclusive right to sell the products of the manufacturers in the countries specified. They fix the basis for the price upon which the selling organization shall purchase goods from the manufacturer. Goods are sold outright and title passes to the selling

organization. The price is usually fixed at a level which enables the selling organization to sell the goods at wholesale as well as retail. Manufacturers are paid for their goods from ten to thirty days after delivery and have no further responsibility for their sale or delivery to the foreign buyer. The selling organization arranges for shipment, pays freight and other charges, handles the goods upon their arrival in the foreign country, including clearance through the customs house, and arranges all matters of a financial nature such as the extension of credit. Goods are advertised in the name of the individual manufacturer.

This selling organization is controlled by a Board of Directors and wide powers are given to the General Manager. Some of the manufacturers who have contracts with the organization also hold stock in it and therefore share in the dividends, but the organization has stockholders who have no goods to sell to it, or with whom it has no contract, and whose sole interest is in the profit made by the organization on its foreign sales. Manufacturers who hold no stock also have contracts with the organization. The management has complete control over the making of contracts and they are always made with the permanent success of the organization in view.

The chief office of the organization is in New York. Its general manager and the heads of its branch houses are Americans. Men of business ability and energy have been found better as managers than

men of high technical knowledge. The latter have been found desirable as salesmen under the direction of the former. In this organization the manager is interested in creating and developing a sound, profitable business rather than immediate sales.

It is the policy of this organization to encourage the sale of its goods by competing houses in foreign markets. This has been done by selling goods to competitors at the regular wholesale price of the manufacturer and by maintaining a retail price at which the organization always sells. The wholesale business is not profitable, but it has created an additional demand for American materials and has strengthened the selling organization. The question of what stock shall be carried in the branch houses and what orders shall be filled by direct shipment, is left entirely to the management.

Those manufacturers who hold stock in the company enjoy a reasonable profit on the goods which they sell the organization and they likewise participate in the profits of the organization. This has worked out very satisfactorily and many of the original subscribers have increased their stock holdings. The two original stockholders have come to regard their share in the organization's profits as their greatest interest in it. This condition, however, is probably unusual and cannot be viewed as a situation which is likely to occur generally.

The conclusion must not be drawn that by selling through a selling organization a double profit is

made. The manufacturer can afford to sell for much less to an export organization than to a foreign buyer. He is relieved of all selling expense, frequently even of all advertising. He has no credit risk. His overhead expense is considerably reduced. Then, selling organizations, well established in foreign markets, can handle goods at less expense than domestic houses engaged in similar trade. The selling organization is the most economical way of doing business not only from the standpoint of the domestic manufacturer but from the standpoint of the foreign buyer.

Another coöperative selling organization has been successfully put in operation for trade in Brazil. It is composed of twelve non-competing firms. It has branch houses at Rio de Janeiro and São Paulo and is preparing to open others in other cities of Brazil. It is proposed that the branch houses shall make selling arrangements with reputable local firms which will be offered stock in the company in order that they may be directly interested in its success and have a voice in the shaping of its policies. The company proposes to make such arrangements with local banks as will enable it to finance its sales on terms customary in Brazil and at the same time to pay the American manufacturer cash for his product.

Under the contracts between the company and individual manufacturers, the company undertakes to represent, advertise, and sell the manufacturer's product in Brazil; to carry at its own expense, where conditions justify, a stock of the various products of

the manufacturer; to keep him advised as to the situation, particularly as to the sale of his goods; and to represent no other manufacturer of a similar line or product.

The individual manufacturer agrees not to sell goods in Brazil except through this agency, unless such sales are made to a bona fide domestic buyer whose business the company had used no influence to obtain. In the event of such sales being made the company is to receive a 3 per cent. commission. Manufacturers agree to guarantee their products free from defects of workmanship or materials and to pack their goods for export in such a manner as to insure delivery at the foreign port in merchantable condition.

Many other lines of American industry exist which might be consolidated in a similar way for foreign trade. It is obvious that an organization can more successfully handle kindred products than those which have no similarity. Some American industries which have practically no foreign trade and which, under the competitive conditions of the world, can never expect to get any foreign trade through individual effort, may, by means of a co-operative organization, develop a substantial foreign business.

The producers of automobile accessories, for example, might organize a successful selling organization. The kindred products might include, among others, spark plugs, tires, jacks, hand and electric

horns, speedometers, vulcanizers, body and metal polishes, soaps, greases and oils, carburetors, shock absorbers, lamps, electric lighting outfits, air pumps, gasoline and oil storage outfits, magnetos, ball and roller bearings, grease cups and tire chains. Few manufacturers of these and similar articles can individually afford to finance a foreign business at all, and practically none of them can maintain a branch house with adequate stock in foreign centres.

A selling organization might be organized to include a representative from each of the accessory lines. Contracts might be entered into between the organization and those individual manufacturers, the former agreeing to handle exclusively the goods of the latter and the latter agreeing to sell through no other agencies in the market covered by the organization. Automobile accessories are usually needed immediately and the buyer cannot wait until shipment is made from the United States. It is therefore desirable to have branch houses in which a complete line can be carried. The details of the contract would have to be determined by the nature of the business. It might be desirable in this line, for example, not to have the selling organization make a profit on its sales but rather to act merely as an agent, accounting to each manufacturer for the goods handled in his line after subtracting a pro rata share of the expenses. The identity of the goods of each individual manufacturer should be maintained and so advertised by the selling organization.

No hard and fast rule as to details can be laid down for all industries; but the general principle of co-operation among allied non-competitors is both practicable and desirable. Dozens of allied non-competing lines might be mentioned which could profit by uniting their efforts in foreign trade. This includes a line each of drugs, perfumery, and proprietary medicines; a line of non-competing railway supplies; a line of agricultural implements, wire, gasoline engines, tools, oils, and paints; a line each of high-priced automobiles, low-priced automobiles, motorcycles, bicycles, and tires.

Although helpful to individual groups of manufacturers, coöperative organizations of non-competitors have an important defect from a national point of view. They will not present a united front to our foreign competitors. In lines where our foreign rivals have a united selling agency or a common selling policy, we are still likely to have many agencies and many policies. Our manufacturers will be competing with each other as well as with foreign combinations and we shall lose the strength which comes from union. This is particularly true in the case of staple products. What we need in selling cement, lumber, coal, or other staple products abroad is a single group combining as much of the export business of competitors in a given line as is practicable, or three or four groups working together under a common sales policy or under an equitable division of foreign territory. In each foreign market

we need to have American industry united, and to have its whole energy directed toward a vigorous competition with foreign rivals. If American manufacturers are to succeed in foreign markets, competitors as well as non-competitors should be permitted to coöperate for export trade.

The Federal Trade Commission does not believe that Congress intended by the antitrust laws to prevent Americans from coöperating in export trade for the purpose of competing effectively with foreigners, where such coöperation does not restrain trade within the United States and where no attempt is made to hinder American competitors from securing their due share of the trade. It is not reasonable to suppose that Congress meant to obstruct the development of our foreign commerce by forbidding the use, in export trade, of methods of organization which do not operate to the prejudice of the American public, are lawful in the countries where the trade is to be carried on, and are necessary if Americans are to meet competitors there on more nearly equal terms.

By its investigation the Commission, however, has established the fact that doubt as to the application of the antitrust laws to export trade generally prevents concerted action by American business men in export trade, even among producers of non-competing goods. In view of this fact and of the conviction that coöperation should be encouraged in export trade among competitors as well as non-competitors, the Commission recommends the enactment of

declaratory and permissive legislation to remove this doubt.*

As a result of the Commission's recommendations a bill for this purpose has already passed the House of Representatives by a large non-partisan majority. This bill declares that the antitrust laws were not intended to prohibit the coöperation of manufacturers solely for the purpose of export trade. In addition to the approval of the House, the principle of this bill has the endorsement of the President and of leading Senators of both parties.

The purpose of this permissive legislation is to give to exporters the freedom to use, fairly, such forms of organization as the exigencies of their own business and the conditions of world competition require for the achievement of a national purpose, namely, the development of foreign trade as a bulwark of domestic prosperity.

The bill permitting coöperation for export trade gives the Federal Trade Commission jurisdiction over unfair methods of competition even when practised outside the boundaries of the United States. No objection can be raised, therefore, to the bill upon the ground that it will permit oppression of American exporters outside the selling organization. Nor does the bill in any way remove the protection afforded the American consumer by the antitrust laws. Just as soon as an organization restrains trade within the

*The two foregoing paragraphs are in substance from "Coöperation in American Export Trade," by Federal Trade Commission.

United States it acts unlawfully. Outside the United States our manufacturers, united among themselves, will find severe enough competition from foreign producers.*

The great majority of the business men, as well as a large proportion of public men and economists, in America are heartily in favor of Congress removing the doubt which now exists in the interpretation of the antitrust laws when applied to organizations co-operating to further our export trade. Such relief will make it possible for us to obtain our share of foreign business so that our factories may run more continuously and keep our workmen more permanently employed. With the removal of the doubt which now exists as to the application of the Sherman Law to export combinations, American business will be able to hold its own in the markets of the world and meet the organized competition which confronts it there.

Competing manufacturers desiring to coöperate for foreign trade will then no longer hesitate to organize, and coöperation can be undertaken between them in a manner similar to that already discussed between non-competitors.

Some additional problems present themselves in coöperation among competitors. Chief among

*See Federal Trade Commission's report on "Coöperation in American Export Trade," and "Hearings Before the Judiciary Committee, House of Representatives," 64th Congress, 1st Session, on H. R. 16707 (July 18-20, 1916).

these is the method of apportioning the business among the different manufacturers who are using the selling organization as their medium for selling abroad. Each organization will, in last analysis, have to determine this question in a way satisfactory to the manufacturers and consistent with its permanence and development. In some cases it may be found desirable to pool sales; in others, to divide the business on the basis of the foreign sales of the different manufacturers during a stated period just prior to the organization of the company and then to readjust the distribution according to the sales made the year before. In still other cases, it will be desirable to divide foreign territory. The utmost good faith and honesty of purpose must be the basis of the dealings between the selling organization and the manufacturers. It may be found desirable at times, where similar lines are made by different manufacturers, to push certain of these lines for each factory, so that the total volume of their sales may be satisfactory though some of their goods have not been sold at all. At times it may be found desirable to distribute orders to factories most needing the business at the time, or to those best equipped to handle the particular order.

The furniture industry offers an opportunity for coöperative effort. Our present exports of furniture are very small. Competition abroad is severe. In South America, for instance, our manufacturers have to meet not only the competition of the European

producer, but of the domestic protected industries which produce large quantities of cheap furniture. Probably the most desirable method to pursue in this field would be to form an organization which would include both kindred non-competing and competing concerns. Contracts might be made between the selling organization and a number of competing manufacturers in the various lines of furniture—office, kitchen, parlor, bedroom, and other lines.

With due care that the organization does not become too unwieldy the American furniture industry might by this means be placed on a sound export basis.

It would probably not be feasible to get all the furniture manufacturers who want to go into the export business to act harmoniously in a single export company, but it would be entirely practicable for three or four such companies to be formed, each uniting such manufacturers as would work well together. These groups could then make equitable contracts with each other regarding sales policies or markets. They might, for example, divide territory. The whole industry would in this way be vigorously represented in international commerce and could develop a large and profitable trade.

At first thought the typewriter industry does not appear to offer a desirable field for coöperation in export trade. Many of our companies in this line are large and powerful and able alone to finance their export business. Some of the larger companies

have developed a substantial export trade and are well entrenched in some markets. It would be well, however, for our manufacturers in this line to look into the future and consider the possibilities of foreign competition. European producers are becoming increasingly active in this industry; they are copying our models and improving their products. Their selling methods are equal to ours. We are weakening our position and playing into their hands by competing with each other in foreign markets. With proper permissive legislation, our manufacturers should be able to agree on a basis for distributing their sales and then to pool their forces against their foreign rivals. Each company could continue to advertise its goods, so that the individual merits of each would be maintained and developed according to its deserts. If one company were more successful than the others, it would have a basis for claiming a larger percentage of the sales at any subsequent readjustment. Coöperation in the typewriter business would practically result in making American industry permanently supreme in this field.

If permissive legislation is enacted, the cement industry will very probably organize a foreign selling agency. It is a good example of the need of coöperation in selling a staple article abroad. It has been suggested that the capital stock of such a selling organization be owned by the producing companies on a pro rata basis determined by each company's total shipments for the three preceding years. The

management of the company would be in the hands of a board of directors composed of one representative from each producing company, and an executive committee to be elected by the board.

The subscribing companies would enter into an agreement to sell to the exporting company their pro rata share of cement for export as required, at whatever price might be agreed upon, and would extend to the exporting company ninety days' credit, when necessary, on such shipments. The capital of the company would thus be supplemented without additional cash being paid in. In case any company were not prepared to supply the product contracted for, provision might be made to enable the export company to purchase from other member companies. If the pro rata distribution of cement among the member companies did not prove satisfactory, it would be practicable, in the case of a staple article like cement, to divide the territory among the different manufacturers. The specifications for cement are more or less standardized, and such an arrangement might be made by which one company would sell in Brazil, another in Argentina, another in Chile, and others in various parts of the world.

Many benefits would follow from coöperation among our cotton manufacturers for developing foreign trade. European cotton fabrics have a firm hold on many foreign markets and American goods break in with difficulty. A strong selling organization will be much more able to succeed than individual

manufacturers. Success here means prosperity not only for the cotton manufacturers and their employes, but for the cotton grower. Our own mills are the best and surest market for our cotton.

Competition in foreign markets is national. Foreign countries such as Germany, England, and France present in markets like those of Latin America a united front. One does not hear of the competition of individual concerns, but, for example, of German competition and English competition. Each country pools its governmental and commercial forces and goes forward into foreign markets in a united effort to capture those markets against the business forces of other countries. Competition from our foreign rivals must therefore be met by bringing together, in a coöperative way, our national forces—governmental, industrial, financial, and commercial. American manufacturers, if they are to be factors in the world's markets, must cease to think selfishly or even provincially; they must think nationally and internationally; their vision must be broadened. United, in the spirit of coöperation and with the support of our government, there is every reason to believe that we shall succeed against all comers in the great markets of the world.

Big, strong, fair export organizations of a coöperative character are what we as a country need to make our export trade add as it should to the prosperity and soundness of business conditions. With these and with successful coöperation for a growing

efficiency in production and distribution here in the United States, American business men will be doing their full share in solving the problems which these stirring times compel them to face.

Most important for the building of an enduring foreign trade is the spirit in which we undertake it. Here in this country we are planning to put our business on the basis of fair competition because we believe that to compete fairly will help business. When we are seeking foreign trade we should have this same thought in mind and aim to compete fairly with our foreign rivals. Fair methods of selling abroad, clean-cut and aggressive but honorable campaigns for business, will not only be a policy of enduring benefit to American manufacturers and merchants engaged in foreign commerce, but will also reflect credit on the justice and fairness of the American people.

PART II
GOVERNMENT AND BUSINESS

CHAPTER I

THE WRONG REMEDY

FOR the last fifteen years the Federal Government has coöperated with the farmer through the Department of Agriculture, with the railroads through the Interstate Commerce Commission, with the barker through the Treasury Department and later through the Federal Reserve Board, and the result has been beneficial to all. When the farmer comes to Washington now he finds a group of government experts who talk his own language and who understand scientifically his problems and his needs. He can submit to them his difficulties and be sure that they will receive sympathetic consideration. His government coöperates with him in working out a solution of his problems which is beneficial not only to him, but to the public generally.

The cotton grower, for example, finds men in Washington who are studying the broad aspects and needs of his industry. Constructive work, which the individual grower could not undertake, is carried through at government expense. New kinds of cotton are experimented with in order to increase the quantity and quality of the yield. Any calamity,

such as the boll weevil, is handled by government experts and thousands of dollars spent to stop it. When difficulties in marketing cotton arise, the government suggests plans for bringing the producers and consumers of cotton together and has even gone so far as to advance money to assist the growers in carrying their cotton until a satisfactory market was created.

The same is to some extent true of the producers of wheat and corn and of the stockmen who raise cattle and hogs and sheep. They find the agencies of the Department of Agriculture constantly at hand assisting them in improving their stock, marketing their product, increasing the yield of the soil, and in general assisting in working out the economic problems involved in stock raising and agriculture.

In like manner railroad men now find in the Interstate Commerce Commission men who understand railroading both in its details and in its broadest aspects. Difficulties of rate classification which have for years perplexed the traffic departments of our great railroads are now being worked out with scientific precision by the experts of that Commission. The questions of safety upon the railroads in which the public is so vitally concerned are demanding from day to day the thought of men trained in this particular field, and the railroads are reaping the benefit of this work through efficient operation, protection to property, and increased reputation for

safety. The Interstate Commerce Commission has brought into the railroad field a vast reform in cost accounting.* Much can still be done in this field, but adequate systems of cost accounting have been installed in all the railroad systems of the country, and uniformity of nomenclature and terms has been adopted, which has enabled the Interstate Commerce Commission to compile the best railroad information that exists in the world. These statistics have served not merely as a basis for further legislation, but they have been of invaluable service to the railroad men themselves in working out internal reforms and questions of policy for their roads.

Bankers have in the same way been benefited by the coöperation of the government, particularly since the establishment of the Federal Reserve Board. The work of this board is to coördinate the banking forces of the country and coöperate with bankers in order to conserve the financial resources of the nation. Not only will this be of great value to the public in preventing crises and financial disturbances, but it will also enable the individual banker to fortify himself against disaster and protect his institution, its stockholders, and the local community in which it operates.

In each of these cases—in the case of the farmer, the railroad man, and the banker—there has been harmony between the government and private enterprise. Mutual understanding and coöperation be-

*See Anthracite Rate Case, 35 I. C. C. 220, 267, 268, 269.

tween them has resulted beneficially both to the public and to the private interests affected.

On the other hand, what a contrast there has been during the last fifteen years in the relation between the government and the merchant and manufacturer. This latter situation has been due in a large measure to a general misunderstanding—a misunderstanding by the public and its representatives in Congress of the needs of business, and a misunderstanding by business men of the place which the government should occupy in their affairs. Business men have journeyed to Washington from time to time, seeking remedies for their ills. They found nothing there but a suspicious Congress and executive departments offering no sympathetic, constructive solution to their problems. In fact, the Department of Justice was the only part of the administrative machinery of the government which seemed to present any hopeful source of advice and direction at all. If the lawyers in the Department of Justice seemed to business men to care little or nothing for the perplexing economic problems which confront business men, it was not their fault, but was a defect in governmental machinery. It was the duty of those in charge of this department to concern themselves primarily with violations of law. Congress had not vested them with power to advise or to aid with constructive suggestions. This situation produced an attitude in the Department of Justice which seemed to business men unfortunately legalistic.

Let me be concrete in order to illustrate how this old attitude, which fortunately now is changing, appeared to business men. At a time past a committee from a trade association, representing one of our large industries, journeyed to Washington and sought the advice of the Department of Justice upon the legality or illegality of certain articles of association which their organization desired to adopt. The lawyers of the Department of Justice took the articles and examined them. They found them to be a plan for coöperation among business men for bettering the conditions of their industry; a plan for uniformity in cost accounting, for standardizing methods, processes, materials, and products, for stimulating technical study and improvement, for gathering credit information and for uniform plans of welfare work among employees. They found no suggestion of price fixing or conspiracy. They found, in fact, an avowal of intention to avoid any activity which could be construed as a violation of law. It was perfectly evident that the articles of association were not illegal, and that they represented an entirely legitimate form of business coöperation. But the traditions of the department prevented the lawyers, whatever their personal feeling might have been, from giving advice in advance. They informed the committee that they were not able to place the approval of the government on any form of coöperation among business men, however innocent it might appear to be on its face. They stated that the De-

partment of Justice was vested with power to prosecute violations of law, and could not under any circumstances give authoritative advice in advance.

This committee represented the progressive men in the industry, but a minority. The majority were timid and more or less contented with the "old-fashioned ways of doing business." The attitude of the department puzzled them and then excited fear. They resolved to have nothing to do with the association. Another attempt to improve an industry by coöperative effort had failed, while the public permitted its government to perform no other function than that of a business policeman.

In another case a group of manufacturers traveled to Washington and presented themselves before the lawyers of the Department of Justice. They submitted an agreement which was in substance a conspiracy to monopolize and restrain trade in their industry. The lawyers took the agreement and after considering it agreed among themselves that it was in violation of the Sherman Law. The manufacturers had advised them that the agreement was already signed and was to go into effect in a few days. The lawyers, however, were not able under the law to give authoritative advice. They could at most only give a friendly hint to the manufacturers that the agreement, if put into force, would be in violation of law. Again they were obliged to make reply that they were not authorized to give any advice in advance.

Business men are accustomed to think and act in straight lines, and this attitude which the law requires the Department of Justice to take does not appeal to them as reasonable. If the articles of association in the first case were legal, and clearly so, why, they ask, should not the Department of Justice have power to tell the committee so? If the agreement in the second case was in violation of the Sherman Law what, they demand, can justify a situation which prevents the department from giving manufacturers such authoritative advice as would prevent them from going out and committing a crime?

The government, however, has not been alone to blame for this attitude. Through a mutual misunderstanding the government has been on the defensive in the interests of the public and business men have been on the defensive in the interests of their private rights.

The first step toward a solution of this deadlock is for the parties—the government and business—to realize what the real trouble is and then to work in harmony to remedy it. In the past the government's attitude toward business has been negative and hostile and seldom, if ever, constructive. Business men have been trying to solve their problems by fixing prices and combining; whereas, their real difficulty was the lack of efficiency and the absence of the proper kind of coöperation among themselves. The Sherman Law is not a panacea for our business

ills any more than monopoly and price fixing, which it is intended to prevent. Government and business, more than anything else, need, as it were, to sit down together and consider the problem of our business and industrial welfare, not from the point of view of the law books, but from the point of view of economic development.

Government and business must also work out a constructive comprehensive program. Business must first realize what ails it, and, secondly, realize that price fixing and combination are not the cure of the ailment. Government on its part must study the ills of business and then realize that they cannot be cured in the courts. If government and business for once really understand each other, one half of the problem of successful coöperation will be solved.

If Congress has been suspicious of business, business men are in a measure to blame for this condition. Too frequently they have neglected and refrained from coming in contact with members of Congress. If the business men of this country would take an interest in the work of their Senators and Congressmen and endeavor to confer with them frequently on the many problems with which they have to contend, I am sure they will find that the Senators and Congressmen will be willing and anxious to learn the facts about business. If business men will do their part by taking an interest in public affairs, they may rest assured that the Senators and Representatives will be only too glad to do theirs.

When I went to Washington I thought, in common with many other business men of the country, that Senators and Representatives were in Washington to do as they pleased, frequently ignoring the wishes of their constituents, particularly those who happened to be business men. My practical experience in Washington satisfies me that I was mistaken. The members of Congress wish to do the right thing by the people of the country. We cannot expect them, however, to be familiar with business problems unless we take an active interest in bringing the facts of business to their attention. It does not create a good impression if the only time Congressmen hear from business men is when some question comes up before Congress to be voted on. At such times business men seem to think that they have done their duty when they have sent a telegram urging their Congressmen to vote for or against the pending measure. This is no way to inform members of Congress. We must do something more than respond to the request of the secretary of some association to send a wire. We must take an active interest in public affairs.

Labor has accomplished a great deal in the way of legislation because labor is organized and thinks collectively of its problems. When anything which pertains to labor comes up in Congress, the labor ^{and vote} leaders make their position very clear upon it. The farmers also coöperate and work together to one end. Both laboring men and farmers have been able to

secure helpful legislation by this means. Business men, however, have received very little in the way of helpful legislation, and one reason for this is that they have not approached their Congressmen in a proper spirit and have not put themselves out to co-operate in a sympathetic, cordial way with them.

and lack
votes.

It is my belief that the business men of the country now fully appreciate that government wants to help them. We must, however, lay aside our former critical attitude. We must face the problem practically and sympathetically. We must not allow our prejudice, no matter what party is in power, to affect and bias our better judgment. We must be business men first and partisans second. If we do this, I am sure that we will receive what we are entitled to.

CHAPTER II

THE SHERMAN LAW FROM THE STANDPOINT OF EFFICIENCY

MOST of the business questions before the American people to-day are not so serious or so complicated that they cannot be worked out on a sound, practical basis. Within a reasonably short time government and business will undoubtedly reach a better understanding and both recognize that in order to do big things they must have the same object in view and have confidence in each other. I believe that this result is being brought about to-day, and if coöperation continues the problem will be easy to solve and certainly the effort will be worth while.

The attitude of the Department of Justice under the present Administration in Washington is typical of the increasing, sympathetic understanding by our government of the problems of business men. The Chamber of Commerce of the United States has a Federal Trade Committee of which Mr. Harry A. Wheeler of Chicago is chairman. About a year ago this committee sought a conference with the Department of Justice with a view to ascertaining the probable attitude of the Department of Justice with

respect to future prosecutions under the antitrust laws. It was explained to the Attorney-General by representatives of the committee that if he would express himself, it might be regarded as reassuring to the public mind and at the same time dispel some uncertainty which heretofore has been said to exist. A number of conferences were held and the result was that the Attorney-General made a statement in which among other things he outlined the policy of the department as regards the method of enforcing the law in those cases which are admittedly doubtful. He stated that where men have entered into a transaction, believing in good faith that the transaction is a lawful one, and subsequently, upon complaint made, the department reaches the conclusion that the transaction was not in accordance with the statutes but is yet satisfied of the good faith and innocent purpose of the parties and can see that there was ground for the view upon which they acted, it has not been and will not be the policy of the department to invoke extreme penalties upon them. In such a case the department would consider that the just and appropriate and quickest way of enforcing the law would be by a civil proceeding in which the question involved could be contested or a consent decree entered, according as the defendants desired; or by a notice to the parties of the department's conclusion, with opportunity to abandon or modify the transaction. It was further stated by the Attorney-General that no proceeding is ever instituted until after the

most painstaking and exhaustive investigation, in the course of which the person or corporation against which complaint is made is given full opportunity to submit its defense before any action is taken.*

The development in the interpretation of the Sherman Law has a real interest to me as a business man. Instead of criticising it I have tried to understand it. I recognize it as a permanent part of our public policy. I am not in favor of its repeal. It has a wholesome restraining effect upon business. It was passed in 1890 to protect the public from an unsound effort to solve our business ills by pools, trusts, and combinations. Since then business and the government have been waging war in the courts. Out of the struggle has gradually come a more and more sympathetic appreciation by the government of the needs of business and a recognition that the real point at issue is an economic question.

There are at the present time two views of the Sherman Law each of which, it is claimed, is the true interpretation of the statute.

The first view—that advocated by the government in suits now pending in the Supreme Court—is based upon the theory that the purpose of the Anti-Trust Act is to insure the preservation of reasonably competitive conditions and to break up all combinations which would defeat that end. This

*For the full statement of the Attorney-General see "The Nation's Business," January, 1916.

view of the law is embodied in the following quotation from an opinion of the Supreme Court:*

"To preserve from undue restraint the free action of competition in interstate commerce was the purpose which controlled Congress in enacting this statute, and the courts should construe the law with a view to effecting the object of its enactment.

"Nor does it make any difference that rates for the time being may not be raised and much money be spent in improvements after the combination is effected. It is the scope of such combinations and their power to suppress or stifle competition or create monopoly which determines the applicability of the act."

The same view was expressed quite recently by Judge Rose as follows:†

"If it be true that size and power, apart from the way in which they were acquired, or the purpose with which they are used, do not offend against the law, it is equally true that one of the designs of the framers of the Anti-Trust Act was to prevent the concentration in a few hands of control over great industries. They preferred a social and industrial state in which there should be many independent producers. Size and power are themselves facts some of whose consequences do not depend upon the way in which they were created or in which they are used. It is easy to conceive that they might be acquired honestly and used as fairly as men who are in business for the legitimate purpose of making

*U. S. v. Union Pacific R. Co., 226 U. S. 61, 87, 88.

†U. S. v. American Can Co., 230 Fed. 859, 901.

money for themselves and their associates could be expected to use them, human nature being what it is, and for all that constitute a public danger, or at all events give rise to difficult social, industrial, and political problems.

"The law wishes that industrial and trading corporations shall operate under the checks and balances imposed by free and unrestrained competition. Doubtless, no one is blind to the evil which such competition itself brings with it, precisely as no thoughtful man can close his eyes to the difficulties which some of our constitutional checks and balances put in the way of securing an ideally efficient government.

"Congress wished to preserve competition because, among other reasons, it did not know what to substitute for the restraints competition imposes. . . .

"The problem presented by size and power is one of such far-reaching difficulty that Congress has said, while it does not see how to deal with them when acquired in the legitimate expansion of a lawful business, it will prevent their illegitimate and unnatural acquirement by any attempt to restrain trade or monopolize industry. Perhaps the framers of the Anti-Trust Act believed that, if such illegitimate attempts were effectively prevented, the occasions on which it would become necessary to deal with size and power otherwise brought about would be so few and so long postponed that it might never be necessary to deal with them at all. . . ."

In this view of the law the function of the Sherman Act is not to regulate monopoly, but to prevent it—
not to regulate the prices fixed by combinations but
to assure the fixing of prices under competitive con-

ditions. Its purpose, however, is merely to impose some reasonable limit on the right of combination, not to foreclose it altogether. It does not limit the size which a business may attain by internal expansion—by growth from within—no matter how large it may become in that way. It does not prohibit combinations of non-competitive trade units which merely supplement each other—the integration of industry. It does not prohibit *all* combinations, even of competing units, but only such as are sufficiently important and comprehensive to bear some reasonable relation to the evils such as the breakdown of the competitive system against which the act was designed to guard. It does not prohibit, for example, the consolidation of two competing companies to promote efficiency where the effect upon competitive conditions generally is not substantial. For stronger reason, it does not prohibit mere trade associations for mutual helpfulness, not intended to interfere with competition. But *every* combination, whether in the form of a pooling agreement, a price-fixing agreement, a holding company, or a single consolidated corporation, which really threatens the normal and effective operation of the law of competition, is forbidden, and no arguments of good intention, or good conduct, or greater efficiency, can bar the application of the dominant public policy against monopoly.

The opposing view makes the *conduct* or result of a combination, not its effect upon competition, the

test of illegality. It is earnestly contended that a combination of competing corporations may be, and often is, a mere effort after greater efficiency, that such combinations, irrespective of size, are normal and usual methods of industrial development and not unlawful unless, and only in so far as, their conduct or their principal result is demonstrably injurious to public welfare. What is injurious to the public welfare should be determined, it is contended, by the court upon the facts in each case.

The following passages from the Tobacco Case* are often cited to sustain this view:

“Applying the rule of reason to the construction of the statute, it was held in the Standard Oil Case that as the words ‘restraint of trade’ at common law and in the law of this country at the time of the adoption of the Anti-Trust Act *only embraced acts or contracts or agreements or combinations which operated to the prejudice of the public interests* by unduly restricting competition or unduly obstructing the due course of trade or which, either because of their inherent nature or effect or because of the evident purpose of the acts, etc., *injuriously* restrained trade, that the words as used in the statute were designed to have and did have but a like significance.†

“We say these conclusions [as to the illegality of the Tobacco Co.] are inevitable, *not because of the vast*

*221 U. S. 106, 179, 182. See also the decision of the highest court of England in *Northwestern Salt Co., Ltd. v. Electrolytic Alkali Co., Ltd.*, 1914 A. C. 461.

†Italics are mine.

*amount of property aggregated by the combination, not because alone of the many corporations which the proof shows were united by resort to one device or another. Again, not alone because of the dominion and control over the tobacco trade which actually exists, but because we think the conclusion of wrongful purpose and illegal combination is overwhelmingly established by the following considerations [showing the unconscionable and oppressive conduct of the Tobacco Co.] . . .***

Again the Supreme Court, referring to the Standard Oil and Tobacco cases, said:†

“Those cases may be taken to have established that only such contracts and combinations are within the act as, by reason of intent or the inherent nature of the contemplated acts, *prejudice the public interest* by unduly restricting competition or unduly obstructing the course of trade.”‡

Perhaps the clearest expression of this view is found in Judge Sanborn’s dissenting opinion in the Harvester Case:**

“[The Anti-Trust Act prohibits] only those restraints and attempts to monopolize which are *unduly injurious to the public* by (1) raising the prices to the consumers of the articles they affect; (2) limiting their production; (3) deteriorating their quality;

*Italics are mine.

†United States v. Nash, 229 U. S. 373, 376.

‡Italics are mine.

**214 Fed. 987, 1011.

(4) decreasing the wages of the laborers and the prices of the materials required to produce them; or
(5) practising unfair and oppressive treatment of competitors. . . .”*

The conflict between these two opposing theories of the law is accurately set forth, and a possible reconciliation suggested, by Judge Hand in the recent *Corn Products Case*:†

“Perhaps it is yet an open question whether or not the test is to be found only in the combination of enough producing capacity to control supply and fix prices, at least until new capital be induced into the field, or whether it must also be shown that the combination has injured the public in the exercise of that power. The opinions of the Supreme Court certainly seem to indicate that it is the power and not its exercise which is the test.

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“Yet it is quite true that the court has also at times spoken in terms which leave it open to argument whether or not it was the public injury done by the combination which makes it illegal. . . . Yet even the expressions relied upon in these opinions are open to a construction entirely consonant with the rule which makes power only and not the manner of its exercise the test of legality. We have only to assume that all ‘undue’ restraints prejudice the public interest, even though the apparent results are

*Italics are mine.

†Decided June 24, 1916, by Judge Learned Hand, District Court, Southern District of New York.

economically benignant to reconcile both forms of expression. . . . If, therefore, public prejudice be the test, it by no means follows that it is to be judged alone by price and quality. A given organization of industry may be thought to react to the public prejudice regardless of its directly observable results."

Being a business man, not a lawyer, I disavow any intention of saying which of these two views of the law is correct. The Supreme Court of the United States will decide that question authoritatively in cases now pending before it. What I wish to point out and emphasize is that the construction of the law has ceased to be a mere legal question; it is now a public, an economic, or, if you please, a business question.

The government has recognized that coöperation and association are within certain limits desirable. The Clayton Law exempts from prosecution under the antitrust laws agricultural and horticultural organizations. The Interstate Commerce Commission coöperates with the railroads in fixing rates. The act creating the Shipping Board exempts certain agreements from the operation of the antitrust laws.* The courts have also approved the large business units and declined to reduce corporations to their lowest terms. They have recognized the fact that some corporations which restrict competition are beneficial to the public and should not be condemned.

Business men on their part must realize, however, that there is no charm in association and coöpera-

*An Act to Establish a United States Shipping Board, Approved September 7, 1916.

tion which will of itself solve their ills. Business is sick and it cannot be cured by a return to the old nostrum—the quack medicine—price fixing. I have been urging for the past year coöperation among business men for the purpose of bettering their business methods and making competition more intelligent. Some men and associations have done me the injustice to read into my words an approval of price agreements. I am unqualifiedly opposed to them whether they are accomplished by written agreement or by a “wink and nod.” They are injurious, not only to the public, but to the men who enter into them. We must eliminate secret methods from our trade associations. There is no excuse for executive sessions behind closed doors.* When we gather together to consider business conditions and problems we must not have our minds on immediate profits, but upon the strength of the industry of which we are a part.

One further word may be said in this connection by way of warning. Construction of the Sherman Law by the courts has not made conspiracy or price agreements lawful, and the Department of Justice will not be slow in prosecuting violators of the law. In addition, the Federal Trade Commission has jurisdiction over price discriminations, tying contracts, and unfair methods of competition generally; and it will not be slow to act where it finds unlawful

*See, in the Appendix, Letter of F. W. Lehmann to George K. Smith, April 8, 1909. Page 238.

conduct. These associations or groups of business men who to-day are using a program for the bettering of business conditions as a cloak to cover up illegal practices are not merely placing themselves in danger of prosecution but, what is worse, they are impeding the real progress of their industry and seriously injuring business as a whole.

Let me illustrate the danger of price agreements. There is a factory, we will say, in a city of 30,000. It has got along fairly well as regards profits during periods of prosperity, without efficient methods such as modern cost accounting and machinery. Everything was run in a loose way and most of the employees were inefficient. The fact that they worked for a firm of this kind made it hard for them to get employment in any other plant. This particular business, we will say, joined a price-fixing combination. Is there any incentive for its management to try to develop efficient methods so long as they can fix prices and take their profits out of the public? Their business will be at a standstill and depend on the power and force of the combination to bring it profits. Such inefficient management does a grave injustice to the young men who are starting in life and working for them. Its responsibility extends not only to its stockholders, but also to its employees. It has a duty to produce efficient men who will be able to obtain, if necessary, employment in an up-to-date factory. Many of those who violated the Sherman Law in the old days were indifferent to efficiency.

This, in itself, is sufficient reason why they should be condemned. Necessity makes us economical in our everyday life and necessity makes us more efficient in business. It is a mistake to sneer at modern business methods and to call them red tape. They are the very foundations upon which our industrial structure must rest. Price-fixing agreements would in fact be a burden upon efficiency and a means of covering up inefficient and unintelligible business methods. What advantage would it be for, say the 10 per cent. of those engaged in an industry who are thoroughly efficient and up-to-date in their cost-accounting methods, to combine with the other 90 per cent. who are inefficient and have no adequate means for determining their costs? How can we compete in the markets of the world if our factories are not efficient? The real solution of our business ills is to be found not in price-fixing agreements, but in increasing and improving the efficiency of our factories, supplemented by an attitude of coöperation and helpfulness on the part of the government. Those business men who are efficient do not need price-fixing agreements, and it would be detrimental to the industry in question and to the public generally to allow inefficient business men to fix prices.

The public and business, after all, have a common interest in the enforcement of the Sherman Law. It protects them both—the former from high prices and poor goods; the latter from inefficient methods and stagnation.

CHAPTER III

CONSTRUCTIVE POLICY OF THE FEDERAL TRADE COMMISSION

THE preliminary steps of administering federal laws affecting business are now thought by some to be the work, not of courts, but of a commission. Congress has vested the Federal Trade Commission* with the power to administer laws against unfair methods of competition and has provided that, while an appeal to the courts is allowed on points of law, the findings of the Commission as to the facts, if supported by testimony, shall be conclusive.

Some of the trade practices which have been brought to the attention of the Federal Trade Commission are: bogus independents; fighting brands; price cutting and selling goods below cost; quantity discounts; refusal to sell goods; the use of "leaders"; systems of exclusive contracts; tying contracts; price discrimination; false and misleading advertising; defamation of goods; espionage; enticing away a competitor's employes; persuading customers to break their contracts; bringing vexatious suits in the courts;

*See pages 213 to 237 for the legislation relating to the Federal Trade Commission.

bribery of employes and purchasing agents of customers; full-line forcing, and others.

At the outset it should be said that many methods of competition have been called to the attention of the Federal Trade Commission which should never have been brought there. If a little common sense were used in such matters, both time and money of all parties, including the government, would be saved. The Commission is anxious to protect business, whether large or small, against unfair methods of competition. Application for the issuance of a complaint, however, should not be made merely on hearsay or in order to satisfy a grudge against a competitor. A business man should pay more attention to his own business and less to picking flaws in the business of his competitor. If his entire staff of employes is enthusiastic about his company and his products and their time and effort are directed toward that end, his customers will be satisfied and his standard of business ethics will reflect credit upon him in contrast with his competitor who files unnecessary complaints and tires others with tales of woe. Business men who are continually complaining against their competitors have little time to attend to their own business and very rarely succeed.

When a trade practice involving a method of competition charged to be unfair is brought in any way to the attention of the Commission, it makes a preliminary investigation to determine whether it has

reason to believe that an unfair method of competition has been, or is being, used. If so, it decides whether a proceeding in respect thereof would be to the interest of the public. Some of the practices are obviously not within the jurisdiction of the Commission; others are clearly violations of law upon which the Commission can act immediately. In the great majority of cases, however, the question is one of business fact—of how the method of competition is being used—and before the Commission can form a judgment it must have definite information.

In making its preliminary investigation the Commission does not use the methods of a detective bureau. The complaining party is requested to submit all the facts in his possession. His charges then are verified, either by means of correspondence or by sending out agents to check them up and collect further data which throw light upon the charge. Before the investigation is completed the Commission notifies the party complained against of the charge against him, and invites him to submit any facts which he may consider pertinent, and in important cases he is given an opportunity to be heard in person before one of the members of the Commission. At every stage of the investigation the Commission uses its own agents to check up and verify information submitted to it and works out, in the most painstaking way, the foundation of fact upon which a sound judgment can be based. No formal rules regulate its preliminary investigations. That method

is pursued in each case which seems best adapted to discovering the truth.

The only order which the Commission is authorized by law to enter is an order commanding the party to "cease and desist" from the unfair method of competition. For this and other reasons it has often given a party the opportunity of discontinuing the unfair method of competition before it issues a formal complaint against him. In those cases where the party insists on continuing the unfair methods of competition the Commission, of course, files a formal complaint. After a complaint is issued the case then proceeds in a formal and strictly legal way.

It should be added that, under the Federal Trade Commission Act, the suppression of unfair methods of competition is primarily a matter of public interest and not, so far as the machinery of the Commission is concerned, a contest between individuals in relation to their private rights. Hence a person complaining of such unfair methods is not a party to nor in any way connected with the proceeding by the Commission, except as he may be called upon to furnish evidence. Moreover, the Commission may on its own motion institute a proceeding; or a person or corporation not directly affected by the practice complained of may make application for the issuance of a complaint.

The method of getting around the table with business men and discussing the problems of their business has been successful. It has been my experience

that business men are ready and willing to coöperate with the government in working out the problems of their business, and to abandon any practice which has even the semblance of being a violation of law. In the majority of cases business men have not been antagonistic to the Commission. When they found that we were willing to study their problems sympathetically they were eager to coöperate and do their part.

In many cases which have come before the Commission the business men have admitted that the method complained of was bad and have abandoned it immediately. The Commission, in fact, has been very successful in "settling cases out of court." In many of these cases all that was necessary to accomplish this result was to call the attention of the business men to the practice and its effects.

Some persons not familiar with the work of the Federal Trade Commission have made the charge that it is doing nothing because few formal complaints have been issued. The ground upon which this charge is made is, when the facts are known, a ground for congratulation instead of criticism. Dozens of cases have been settled by the Federal Trade Commission amicably, saving money, time, and bad feeling, which under the old legalistic method would have dragged out into long, unprofitable litigation. I will mention a few of these cases. In one case a manufacturer engaged in interstate commerce issued a publication in which, under the guise of trade news,

misinformation of a character unfair and detrimental to the applicant's business was circulated. The Commission began an investigation of the case but before the investigation was completed the Commission was advised that the alleged unfair method of competition had been discontinued. The party complained of then assured the Commission that its policy had changed with a change of management, and that no such practice would in the future be engaged in against any competitor. In another case a typewriter rebuilding company engaged in interstate commerce circulated among dealers in various states a letter falsely stating that a competitor's factory in the Middle West had been removed to the East and that for this reason many of its customers in the Central and Western states would make new arrangements for rebuilding typewriters. It appeared subsequently that the party complained of believed the statement when made to be true. It sent a letter of retraction to all dealers receiving the first communication and assured the Commission of its readiness to take any action deemed necessary to correct the wrong which had been done. In another case a manufacturer engaged in interstate commerce sent out a printed circular containing a letter alleged to have been sent him by a dissatisfied customer of a competitor, disparaging the quality of the competitor's product. It was charged that this was a bogus letter. As soon as the Commission began its investigation, it received assurances from

the concern complained of that it had discontinued the publication of the circular and that in the future it would not refer in its advertising matter in any way to the products of its competitors. In another case an association of wagon peddlers, competing with a jobber, had by threats of boycott prevailed upon a manufacturer engaged in interstate commerce to refuse to sell to such jobber. Shortly after an investigation was started the Commission was advised by the jobber that the manufacturer had resumed selling to him. Assurances were also given the Commission by the manufacturer that the jobber would not in future be denied the privilege of buying from him by reason of the threatened boycott. Many other cases of a similar nature might be cited.

In another class of cases before the Commission business men have suggested that they were willing to abandon an objectionable method of competition provided all others in the trade would do likewise. In several cases the Commission has been appealed to to make a general ruling which would be binding on all parties engaged in a given business, forbidding the use of an unfair method. In one prominent industry it was claimed by all except one manufacturer that the guarantee by the manufacturers against the decline in price of goods in the hands of jobbers was used unfairly. The Commission was asked to so find in order that this method might be entirely eliminated from the industry.

In still another class of cases business men have ex-

pressed a willingness to abandon objectionable methods of competition, but have submitted at the same time to the Commission facts which show that a worse condition of business preceded the adoption of the objectionable practice than was created by it. While being willing to abandon the method in question, they sought from the Commission suggestions as to how they could be saved from a return to conditions which were admitted by all to be worse. In one industry, for example, a powerful corporation adopted a policy of quantity discounts based on purchases during a given period of time. It was claimed that this practice was not a fair quantity discount but had the effect, in fact, of a price discrimination and of a tying contract. Practically all the competitors of this corporation claimed that the new selling method had had a stabilizing effect on the market and had created a much more wholesome condition in the industry than had existed under the system of secret rebates and price-cutting which had preceded it.

Difficult and complex business questions are presented almost daily to the Federal Trade Commission. In many cases it is clear that negative action alone is not sufficient. The policy of the Commission is to be constructive—constructive from the point of view of industry and from the point of public welfare. It is not satisfied with examining merely the legal aspect of methods of competition, but it goes deep into business conditions and endeavors to

protect the public not only from immediate danger but from that far more dangerous and insidious injury which comes from unsound business methods.

While it may be said that the policy of the Commission is, as it were, to "reform the criminal," I want to emphasize the fact that its attitude is not to be construed as an easing up on proceedings against wrongdoers. Its attitude requires the utmost good faith on the part of business men. Those who are not fair and open with it, who take a wrong advantage of the Commission's coöperation, will be proceeded against.

The Federal Trade Commission has frequently given advice in advance, or made rulings on inquiry when a law which the Commission is empowered to enforce was involved. It is not, however, a legal aid; society and business men must not expect too much. At the present time it has no jurisdiction over violations of the Sherman Law and it cannot, therefore, pass upon proposals involving that law. Further, many questions arising under the Federal Trade Commission Act and the Clayton Act are questions of fact and cannot, therefore, be considered in advance. The Commission, however, gives advice wherever feasible and to whatever extent the law may warrant. If a business man comes to the Commission and submits to it a question involving a matter within its jurisdiction, and if it appears that the proposed conduct is clearly lawful, the Commission will not hesitate to say so frankly. On the other hand, if the proposed conduct is clearly in violation of the Federal

Trade Commission Law, or of those sections of the Clayton Law which it is required to enforce, the Commission will not allow the inquirer to violate the law and then subject him to a proceeding thereafter.

We are talking a great deal these days about mobilizing our industries and coöperating for industrial preparedness. We have been floundering about for many years with no definite plan. In fact, the first step has hardly been taken toward solving our industrial problems and achieving those results in business which we all know are absolutely necessary. Coöperation requires the interest and good will of both the government and business. Business men are anxious to coöperate with the government. It is the intention of the Federal Trade Commission, on behalf of the government, to lend its active constructive aid, and its earnest desire is to do everything in its power to help to foster American industries. Its work extends beyond the mere proceeding against violators of the law. It is seeking to improve business conditions in such a way as to reduce the probability of violations of law. As will be considered in later chapters, it has begun at the foundation of business by encouraging better cost accounting and other business methods. It has begun to gather comprehensive data on industry. It is using its great investigative powers in coöperating with Congress and in furnishing information which will lead to sound business legislation. It

believes that the day of the negative attitude of government is past and that the time has come when the government must take an interest in laying broad and secure foundations for American business life.

CHAPTER IV

SHALL OUR BALANCE SHEETS BE FALSE OR TRUE?

THE Federal Trade Commission is actively interested in improving the business methods of the American manufacturer and merchant. It has found a deplorable lack of adequate accounting methods in our industries. In order to remedy this condition it has been doing effective educational work along this line. Many thousands of pamphlets* on accounting have been sent out to merchants and manufacturers, bankers, accountants, and trade associations, and thousands of letters have been received endorsing this work and proving the necessity for its extension.

The Commission is also coöperating with many trade associations in an endeavor to assist in standardizing bookkeeping and cost accounting methods. It sends out its experts from time to time to work with them and to discuss the features of cost accounting peculiar to their industries. If an association seeks the counsel of the Commission, after it has worked out a sound cost system, the Commission

*See "Fundamentals of a Cost System for Manufacturers," July 1, 1916; and "A System of Accounts for Retail Merchants," July 15, 1916, published by the Federal Trade Commission.

will endorse the system as basic for that industry. The details of the system will, of course, vary with the individual business, but an association with an approved standardized cost system will be in a strong position to bring its members into line on sound cost accounting.

This is constructive work. The problems of credit and finance, of foreign trade and unfair methods of competition, and of labor and capital—all will begin to solve themselves once the subject of costs receives on every hand the attention it rightfully deserves.

But after trade associations and the Federal Trade Commission have done all that they can toward improving cost accounting methods, there are still two other parties to the problem who will have to do their share in its solution. The accountant and the banker must also coöperate if we are to insure the preparation of financial statements which will show the true standing of business concerns.

In its investigation the Commission has found a very decided tendency among business men to overvalue their assets and frequently to understate their liabilities. The overvaluation of assets is in a large measure due to the failure of business men to make adequate provision for depreciation. In many cases the difference between the value of the assets shown by financial statements and the actual value is so great that many concerns showing a comfortable surplus are, in fact, insolvent. There is also a failure on the part of business men to consider carefully the por-

tion of expenditures for jigs, tools, dies, and patterns properly chargeable to capital and the portion chargeable to the cost of production. In many cases of commercial failure, concerns have made statements for credit purposes, which give no suggestion of the true financial condition of their business.

The difficulty may be made more concrete by an example. An accountant, we will say, goes into a factory for the purpose of auditing a manufacturer's books and preparing a balance sheet. He finds that the manufacturer is not making adequate provision for such items as depreciation and bad debts, and that he is carrying in his inventories patterns and outworn machinery which have nothing but junk value. He remonstrates with the manufacturer. He feels that it is his professional duty to call attention to these defects, which are all the more dangerous to the manufacturer because they are not apparent to him. He realizes that such condition is evidence of financial unsoundness. The manufacturer, however, is reluctant to change his methods and to write off his books certain items which he has persuaded himself are part of his capital. Confronted by such a situation the accountant does his best to make a true financial statement, but the limitations placed on him by the manufacturer make his task very difficult.

Thousands and thousands of dollars are borrowed from our bankers upon balance sheets made in good faith but which do not reveal fundamentally the true state of affairs. The unsound conditions which

they should, but fail to, reveal are brought to the banker's attention in crises when he endeavors to realize upon the assets which the balance sheet had led him to believe the manufacturer owned.

The great difficulty in this situation is that no matter who prepares the financial statement, whether the manufacturer or merchant himself, or the public accountant, the person preparing it is likely to be either the prospective borrower or some one in his employ. The natural tendency is to make as favorable a showing as possible. In order to increase the reliability of financial statements and to enable the banker to place more confidence in them, some plan must be devised which will make the authority of the banker over the accountant at least equal that of the borrower, particularly with reference to the form of the statement and the methods used in determining the value of assets and the ascertainment of liabilities.

The Federal Reserve Act affords an opportunity to effect this reform. The federal reserve banks use commercial paper as a basis for the issuance of currency. The acceptability of such paper depends to a large extent upon the evidence of security presented by the rediscounting bank. No banker, therefore, should offer paper for rediscount unless he has good evidence of its value, determined by reliable and well-defined methods of accounting.

A good financial statement can be readily analyzed. If it is a true statement it will reveal in a moment whether or not the business is healthy. But

the question is, is it a true statement? In bankruptcy cases it is generally found that statements recently submitted to banks and others for credit purposes are so far from the true state of affairs that they appear to have been deliberately made to deceive. Of course not all statements in these cases are untrue. So long as a business is prosperous there is no necessity for an incorrect statement. Experience proves, however, that few business men who are in trouble face the facts squarely and still fewer have the courage to reveal the truth to their bankers. The result is that the banker is deceived into making loans which entail a loss to him and add to the number of our business failures.

It is a common occurrence to find statements prepared for credit purposes made up to a large extent of unrealizable cash items, of doubtful claims and accounts irretrievably lost which are carried as good accounts receivable, of shopworn and out-of-date merchandise carried at its original cost and even sometimes carried at retail value, and of machinery in use for ten years carried at its first cost with perhaps ordinary repairs added.

Over-optimistic views and sometimes dishonesty are responsible for many incorrect financial statements. Procrastination also plays a large part. The inclination to put off until a later date the provision for bad debts, to wait till a more profitable year before writing the inventory down to a conservative value and providing for depreciation of

plant and equipment, is likely to have but one end—and that is failure. When a financial statement showing full assets is presented by a going concern, the banker of the future must take into consideration not only the question whether the corporation is efficiently managed in its production but particularly whether it has a sound method of determining cost. A financial statement covering an especially successful year, no matter how favorable it appears, would be misleading if the corporation's cost accounting has neglected provision for bad debts and depreciation. Any financial statement taken by itself, without knowledge of the other essential facts (one of the most important of which is the positive soundness of the corporation's accounting system), may be the means of causing the banker a loss.

Few business men seem to be able to value impartially their own property. No financial statement, therefore, should be accepted as a basis for credit unless it has been prepared and certified to by a competent and disinterested auditor under rules and regulations laid down by the party who grants the credit. These rules and regulations should be laid down by the Federal Reserve Board and subscribed to by auditors. The auditor should not receive instructions of any kind from the prospective borrower nor should he be permitted to place the government certification on statements, exhibits, or any other form of accounting work which has not been verified by him or under his supervision.

The plan suggested is, first, that a standard form of statement be prepared on which all statements for credit purposes are to be made. In the second place, a set of rules and regulations should be laid down for the valuation of assets and the ascertainment of liabilities, and these rules subscribed to by the accountant and followed by him in the preparation of those statements on which he places the government certification. In the third place, all statements accepted by banks should be prepared or verified by an accountant who is registered with the Federal Reserve Board or with the federal reserve banks. The board or banks should have the authority to revoke the registry of an accountant for unreliable work after giving the accountant an opportunity to be heard. The rules and regulations could be drawn up by the Institute of Accountants for the approval of the Federal Reserve Board or banks.

What would be the result if this system of registering accountants were adopted? A registered accountant, we will say, goes into Jones' factory. He states to Jones that if he will permit his balance sheet to be made in conformity with the rules and regulations laid down by the Federal Reserve Board he will place upon it the certification of the board. Jones, however, wants to have his balance sheet make a good showing, and he therefore insists that it be made up in the old way, disregarding many of the rules and regulations required by the board. The accountant

complies with his request and places upon the balance sheet the same old certification which he has been giving for years.

The accountant then goes to Brown, also a manufacturer. The new plan of government certification appeals to him and he permits the accountant to make out his balance sheet in strict conformity with the rules and regulations of the Federal Reserve Board. This manufacturer receives the government certification on his balance sheet.

Shortly after, Jones and Brown go to the banker to borrow money. Jones produces his old balance sheet and Brown produces his, which is made in conformity with the rules and regulations of the Federal Reserve Board. It is perfectly evident what will happen. Suspicion will immediately rest upon Jones and a question arises in the mind of the banker as to his financial soundness. The balance sheet of Brown, however, will encourage confidence and the banker will unquestionably favor him with ample credit for the purpose of building up his business. In the long run the result will be either to eliminate those manufacturers like Jones who refuse to square their business with modern accounting methods, or to force them to meet the new demands laid down by the bankers and adopt modern business methods.

CHAPTER V

ON GOING INTO BUSINESS INTELLIGENTLY

MUCH of the enormous sums of new capital available every year in this country for investment in productive enterprises is wasted. Some of it is sunk in wildcat mining schemes and other fraudulent promotions; more of it is lost through lack of knowledge where to place money. The industry into which it is put is determined under present conditions largely by guesswork. A promoter perhaps starts a factory and sells stock in the enterprise to the public; or an enthusiastic chamber of commerce or commercial club boosting for its city projects a cannery or box-board mill, and local business men invest their surplus. This is all done with the best of intentions and with that splendid push and progress which characterizes our American people. Machinery is purchased, employes begin work, and a satisfactory product is soon being turned out only to be sold at so low a price that there are no profits. The expenses are greater than the returns. Neither the investors nor the chamber of commerce knew that in the industry selected the market was perhaps already glutted; that there was overproduction even before the new factory began operating. In

six months or a year the concern goes into the hands of a receiver, and its affairs are wound up with a loss to the small business man whose capital has been put in so confidently. Why? There were no complete data available regarding conditions in the industry, collected by an authoritative body and easily accessible to business investors. The facts were lacking. Failure resulted.

The great waste of American capital going on constantly under present conditions can be avoided by having a central clearing house for industrial and commercial data, amply equipped to get the facts, ready to supply them instantly when needed, careful to guard them against misuse, giving out no data regarding individual concerns; only that information relating to the industry as a whole. This need can best be met by a governmental body, and being in the field of trade and industry it naturally falls to the Federal Trade Commission.

In order to coöperate intelligently with the manufacturers and merchants of our country, the Federal Trade Commission must have the principal facts about each industry. For the purpose of securing these facts it has inaugurated a Report on Industries, covering the manufacturing, mercantile, and miscellaneous business corporations of the United States, and designed to summarize for their benefit the most important items in each industry. To this end approximately 290,000 schedules have recently been sent out, of which more than 100,000 relate to manufactur-

ing concerns. Replies have already been received from a large proportion of these.

Schedules sent out in this first inquiry are comparatively simple, but call for information of vital importance to each industry. The items asked for from each concern include the amount of capital invested, the annual net sales—a basic factor in making up the total volume of business for the industry—the profit or loss for the year, and the amounts charged off for depreciation and for bad debts.

These facts are simple enough to require a minimum of work on the part of the company replying, but are believed to be sufficiently fundamental to supply some very significant facts at the very outset of this work.

It is a large undertaking to secure and handle even these simple reports for so many thousands of concerns. With its present force the Commission has found it necessary to concentrate first on the reports for manufacturing industries. Summaries for the more important lines of manufacture will soon be available.

In the mercantile and miscellaneous businesses so many thousands of firms and individuals, as well as corporations, are engaged in the various lines that reports covering only the corporations will be of limited value. Moreover, it is undoubtedly true that most of the firms and individuals, and most of the corporations as well, are engaged in purely intra-state trade.

These are serious obstacles in the way of developing a plan for enabling the merchants of the country to have the benefit of summarized information on the few simple but fundamental facts they so badly need to know. Such facts regarding each mercantile or other business, arranged to show local as well as national conditions in the business, would be of inestimable value. Thousands of mercantile corporations solely in intra-state commerce willingly responded to the Commission's request for a report on their businesses. This indicates their sense of the value of such information. It is to be hoped that as the helpful possibilities of this information come to be more widely realized, some plan can be worked out to insure the extensive coöperation of local business men and to provide the machinery necessary to handle the reports promptly.

The data already received for the manufacturing industries disclose an inability on the part of the corporations to set forth their own figures in detail, and also a lamentable lack of correct accounting practice. Many concerns manufacturing a number of articles supplied us with their total net sales, but when asked to divide this total in order to show the amount of net sales for each of the main classes of products, they replied that they were unable to do so, because they kept no record of the separate sales by classes or particular products. A concern producing pig iron and coke, with annual sales of nearly three million dollars, wrote us that they could not tell how much of their

sales represented pig iron and how much coal or coke. "Our books do not show these items separate," runs their letter. A manufacturer of grape juice and kindred products, whose sales amount to \$150,000 yearly, when asked to say how much of this represented grape juice and how much kindred products, replies: "It is practically impossible to give this report separate. . . . Our production during the year 1915 was mostly grape juice, probably at least 80 per cent., and our books are not in shape to make this division, but for the year 1916 we will be able to make a report to the Commission that will cover each item separately." Another manufacturer says: "We will, however, in the future be able to render the amount manufactured of each of our different products."

The first reports in the Report on Industries cover only the most elementary facts. A commission charged with the general oversight of business should be supplied with certain additional data equally fundamental. If the Commission is to attempt constructive work of actual assistance to our industries, it must have information on every important industry, showing not only the concerns engaged in the industry, the location, main products, and sales of each, with the principal sub-products but the general conditions as well throughout the trade, including a good knowledge of raw materials, of processes of manufacture, whether hand or machine, methods of distribution—whether direct or through

jobbers. Especially it needs facts showing whether concerns in the industry are in sound condition, which requires, in addition, information on methods of figuring profits, estimating depreciation, and similar items bearing on the prosperity of industrial concerns. These items are fundamental as a basis of every step in the work of the Federal Trade Commission. Knowledge of the facts must precede intelligent action.

Even though business men are busy making money it is believed that they will take time to examine the basic facts of their industry when such facts are gathered for them by reliable government authorities and summarized clearly and concisely. Similar work is being done in other lines by the government, particularly in the production of cotton in which the statistics of the cotton crop—the amount ginned, total weight of bales, the value of cotton and the cotton seed, acreage, and other basic data—are set forth by a government bureau. The Trade Commission hopes to be able to supply similar data for manufacturing industries in reply to the many requests received.

It is the aim of the Federal Trade Commission to have its Report on Industries furnish this definite information. By this means the Commission hopes to keep the business world intelligently informed as to what industries are and what are not in a healthy condition. If it finds an industry in which over-production exists, it will report this fact, and such

report will tend to deter further capital from going into the industry. This should eliminate the promotion of "boom" projects, which are so often followed by vacant factories. It is the belief of the Commission that when business men have at hand accurate and reliable information about their own industry, they will be able themselves to take active steps to correct existing evils. The greatest enemy of business to-day is ignorance of the essential facts. Trade associations can be of substantial aid in this work of getting correct data on their industries by urging members to report promptly and fully the facts desired and sufficiently subdivided to be of significance.

The Report on Industries, when completed, will show the net profits in the industry over a series of years, and the amount of depreciation, obsolescence, and depletion charged off for the periods in question. There is no intention of supplying this service except where it is requested and where concerns are willing to furnish the government with details which will be woven into an intelligible whole and given back to them.

Monthly or quarterly statistics will be issued later, it is hoped, as the force of the Commission is increased, for those industries desiring this service. Such items as the amount of production and shipments, the sections to which shipped, both foreign and domestic stock on hand, raw materials used, and possibly the prices actually received for the product or paid for the raw material, will be included. Comparisons with previous months or corresponding

months in previous years will throw light upon the general trend of the industry and enable the producer to act intelligently under varying circumstances.

By this means it is hoped to reduce the high proportion of failures in American business and to stabilize industry.

The Federal Trade Commission aims to approach its other investigative work in the same constructive spirit as its Report on Industries, and to prepare for the public and their representatives in Congress unbiased statements of fact. Any honest and comprehensive investigation makes not only for intelligent action among business men but for enlightened legislation. The Trade Commission act clothed the Commission with comprehensive powers of investigation* under which it is empowered to conduct inquiries either at the request of Congress or upon its own initiative. The reports of the Commission upon "Trade and Tariffs in South America" and upon "Coöperation in American Export Trade," its reports on "The Fertilizer Industry," and on "Pipeline Transportation of Petroleum" are examples of its work in this direction, and a number of other investigations are now being conducted.

In this work the Federal Trade Commission plans to concentrate on any inquiry under way, and finish the job promptly, reporting its findings to Congress or to the industry interested before the information collected is old and out of date.

*See Section 6 of the Federal Trade Commission Act, page 290.

CHAPTER VI

WHEN COMPETITION FAILS TO REGULATE

INTELLIGENT competition is an adequate regulator for most of our industries. Government regulation is not necessary nor desirable as a general industrial policy in this country. We do not need it. Under supervision by a government body which prevents unfair practices and gives the information needed, competition may be depended on in nearly all cases to take care of both public and private interests. The individuality and energy of our business men, with fairness and efficiency, and with the proper kind of coöperation in their trade associations, will almost certainly make competition the wholesome governing force it ought to be. But exceptional cases may arise when competition fails to regulate. If such a case arises, if competition is found to aggravate instead of cure, the government should step in and regulate the business; it should use its power in behalf of the public to do what competition failed to do.

There is an analogy for this in the attitude of government toward public utilities. In public utilities it has been found by experience that competition has not proved adequate to protect the public interest. Some abridgement of competition and some curtail-

ment of private rights have been found necessary for the sake both of the public and of the utilities themselves. Hence public regulation of utilities has come to be the established policy of this country. In the recent Shipping Act, for example, Congress even went so far as to provide that agreements restricting competition among common carriers by water, when approved by the United States Shipping Board, should be lawful. The reason why public utilities require regulation by government is twofold; in the first place, without regulation they inevitably tend, on account of the fixity of the investment, to a condition of destructive competition; and in the second place the social convenience and necessity of the utilities are so great that the public cannot afford to permit their demoralization.

Many economists believe that some at least of the so-called "extractive" industries—those which make our natural resources available—should be regarded as in the same class as public utilities, in that capital once invested in them cannot be diverted without great loss and in that public convenience and necessity require their steady operation. Since destructive competition in such industries is also likely to result in waste of the natural resource, an additional ground for public interest is presented. In some of our industries of this character the operators and the labor organizations assert that their experience has brought them to believe that while they can still do much to better their efficiency, unrestricted

competition is resulting in a growing demoralization which only governmental regulation can relieve. These theories and assertions of experience present a serious question for governmental consideration. It becomes important to determine the facts without delay.

The bituminous coal mining industry, according to those who have watched its course, is one in which unrestricted competition has engendered a demoralized and inefficient condition. Let me take up this industry concretely.

Much has been written and much statistical data has been gathered regarding the general subject of bituminous coal, but my interest in all this material centres on the facts, the assertions, and the points of view that concern the broad question I have just been discussing. Hearings have been held before both Houses of Congress, testimony and evidence have been submitted in some of the coal rate cases before the Interstate Commerce Commission, the reports of the United States Geological Survey, the Bureau of Mines, and the various State Mine Departments contain quantities of information. The proceedings of the American Mining Congress and of the interstate wage conferences are full of material on the industry; economists have written on it. Operators and miners are constantly discussing its problems from their different angles. From these sources and from my personal observation I purpose to indicate some of the commonly known facts, some of the assertions yet to

be established, some of the theories that bear upon the economic future of the bituminous coal industry.

I approach the matter in no spirit either of disbelief or of advocacy, and for the most part shall not attempt at this time to reach conclusions even as to what the facts are, for thorough investigation alone can determine some of the most important of them. What I want to do is to bring together here, in some sort of order, the chief phases of the problem—the things that will have to be investigated and weighed before the mind can reach a judgment. In all this I confine myself to bituminous coal. In the anthracite fields different conditions prevail.

The physical extent and formation of the bituminous coal deposits are such as would naturally tend to cause a highly competitive condition in the industry that mines them.

There are great areas of bituminous coal-bearing lands, widely distributed, accessible to the principal consuming markets, and easily mined. In many states coal veins outcrop along the hills and valley sides in geologic formations that make it possible for concerns to start mining with the minimum of capital. Over much of the great Appalachian bituminous coal fields the farmer can turn the cornfield above the barn into a coal mine at any time simply by opening an entry in the hillside.

In consequence of these conditions many operators, often small concerns, have gone into the business. Some have been encouraged and assisted

by the owners of coal lands who were anxious to have their properties developed. In other cases speculative holders of coal lands have developed their properties in an effort to meet carrying charges. It is stated that as a result more mines have been opened than were needed. It is also said that these mines have been overdeveloped. The demand for coal fluctuates with the seasons. It is heavier in the fall and winter than in the spring and summer. But the operator must have the mine workings, the equipment and the labor force necessary to handle his maximum business. To do this he maintains his organization on a permanent basis the year round, even though this is beyond the requirements of his trade during half the year. It is pointed out that there is thus a huge potential overproduction of coal, and that usually the mines could readily produce 100,000,000 tons of coal in excess of the total annual output.

The demand for bituminous coal is comparatively inelastic. It cannot be increased much by advertising or the other usual means of expanding the volume of business. If one company increases its sales markedly it often simply takes trade away from some other operator. On the other hand, we are told that the necessity of selling bituminous coal to meet fixed charges and to maintain the mining property and organization, forces scores of operators to produce all the tonnage they think they can possibly sell and to dump it on the market at whatever price can be obtained.

It is clear that much of the capital invested in a coal

mine cannot get out. It must stay and fight. A retail hardware store can be turned into some other retail business promptly and with little loss, either to the dealer or the public. The investment in stock can be readily sold and consumed, while the building and fixtures can be used for other purposes with a little alteration. Similarly, many kinds of factories can be turned from one sort of manufacturing to another with but little loss. The power plant and buildings, plus much of the equipment, can be used for the new business with only slight changes. This flexibility of the investment makes it possible for men to get into such lines of business and get out again readily as competitive conditions change, and permits readjustment of competition.

To this flexibility coal mining presents a striking contrast. Here nearly all the investment is fixed, and is in such form that it can be used for nothing else. A large part of the investment is in shafts, tunnels, entries, and airways through the coal and rock, which are utterly useless for any purpose but the mining of coal. Moreover, a power plant built, as many are, to run a mine out in the mountains usually has no other field of usefulness and, if the mine closes down, must be scrapped. Hence capital invested in the coal mining business necessarily enlists for the length of the war. It must stay in the fight until exhausted, or until it has won its way out through profits.

Careful observers say that competition is rendered still keener and more complex by the fact that many

bituminous coal mines are controlled by coal-consuming interests. Thus railroads, power companies, gas plants, street railways, and various manufacturing companies have bituminous coal mining subsidiaries to furnish their fuel. Probably one-third or more of the total output of the nation is produced by such concerns. This integration is a move in the direction of efficiency on the part of such consuming interests, but it is asserted to have produced a difficult condition for the purely commercial operator. The coal mining company which is affiliated with a large consumer has certain decided advantages in the operation of its mines. It knows far in advance just what the demand for its coal will be, and it can plan and operate its mines accordingly. It can operate regularly and hence can obtain the maximum of efficiency and the minimum of cost. Moreover, it has no selling expense in disposing of the major part of its product. Such mines are usually developed to produce something more than the tonnage required by the consuming interest in order that they may be able to supply any unusual demands by such parent company. This surplus must be sold on the market. Owing to their low cost of production and their favorable connection with large consumers, these companies can afford to market their surplus output at low prices. There is complaint that they often quote prices which allow the purely commercial operators little or no profit and that this adds to the competitive troubles of such operators.

If these are the conditions it is doubtful whether combinations among bituminous coal mine operators to control production and prices could be long successful on any important scale, even if they were freely permitted. But they are prohibited by the antitrust laws, and consequently unrestricted competition of the keenest kind is emphasized as the dominant characteristic of the industry.

One of the physical facts affecting competitive conditions is the localization of bituminous coal deposits in large but widely separated fields. It follows that each field has a distributing zone fairly well defined by freight rates.

Thus in Chicago, bituminous coal is sold from three or four West Virginia districts, from southeastern Kentucky, from southern and eastern Ohio, from western Pennsylvania, and from several fields of Illinois and Indiana. In the Omaha market Illinois, Colorado, Arkansas, Oklahoma, Kansas, and Iowa compete. So closely are market conditions balanced that the invasion of new markets in the Central West by a Pennsylvania district, for example, would more or less affect the Colorado producers, even though the latter did not sell a pound of coal in the territory reached by the Pennsylvania product.

While this industry has developed certain efficiencies, particularly in the way of integration, government experts agree that it has also produced surprising wastes and inefficiencies.

One of the most striking inefficiencies from the social

viewpoint of conserving our natural resources is the tremendous waste in mining. It is estimated by reputable authorities that for every ton sold half a ton is left in the ground. This means that for the 600,000,000 tons of bituminous coal which will be mined in 1916, approximately 300,000,000 tons will be lost. Not all of this coal is really wasted. Some of it must be left as pillars to maintain the surface, which in Illinois, Indiana, Iowa, and various other districts, is rich farming land. Pillars of some sort must support the roof of the mines under these areas, in order that the land may not be ruined for agricultural purposes. Under most circumstances pillars of coal are cheaper than any other. However, millions of tons of coal are irretrievably lost that should be recovered. Competent engineers estimate that the avoidable waste perhaps amounts to 200,000,000 tons a year.

Some of this waste is due to abandoning coal where the cost of recovery is increased by squeezes, rolls, etc., in the mines, to leaving pillars simply on account of the expense involved in drawing them, and to leaving coal around the boundaries of mined areas, because of the added cost of mining it. Some of the waste is also caused by mining coal veins which lie beneath other less valuable veins and by letting the roof fall as the workings are abandoned, thus breaking up the veins above and making their mining forever impossible. The extent of this loss and its importance may be better understood from the fact

that in the United States few veins of bituminous coal are mined which have a thickness of less than thirty inches, but in France and Belgium coal is mined from deep strata where the veins are less than twelve inches thick. To the French or Belgian coal operator a 26-inch vein which our operators would destroy by the improvident mining of veins below it, would be a treasure indeed.

The public is directly affected by these bad conditions. It may seem of little importance that some 200,000,000 tons of our best bituminous coal are wasted every year. It is true that the nation has great resources of coal hardly touched as yet, but a large proportion of this coal is of lower grades, is in thinner measures, lies at greater depths, and is farther from the consuming centres than the coal now enjoyed. The present superior coals which we are burning represent but a small part of the aggregate coal supply. It is this cream of our coal that we are wasting so prodigally. The time is not far distant when coal consumers must pay higher prices or content themselves with poorer coals because of this present waste.

Another inefficiency in the production of our bituminous coal is the surprising waste of labor. This does not mean that American coal mines are poorly equipped mechanically. On the contrary, good use is made of modern equipment of every kind, such as mining machines, electric motors, power pumps, steel

mine cars, etc. The waste occurs in the great proportion of the time the labor force is idle at the mines. Official reports show that in our bituminous and lignite mines nearly 600,000 men are employed, but on an average the mines run from only 200 to 240 days per year. Excluding employes such as engineers, firemen, pumpers, and various inside workmen, who must be employed constantly at most mines, approximately 500,000 bituminous coal mine employes are idle from sixty to one hundred working days per year.

The waste of labor adds directly to the cost of coal. In the end the consumers must support the men who mine the coal. At present the consumers are supporting a standing army of 500,000 bituminous coal miners and their families in absolute idleness something like three months in every year.

In various large fields the loss of time is even greater. Thus in Illinois the mines ordinarily run only about 180 days per year, and in this single state from 70,000 to 75,000 men are maintained in idleness at the mines from four to five months per year. Such inefficiency should not be tolerated in a well-ordered business or nation.

The particularly unfortunate feature of all this wastefulness and inefficiency is the fact that, so far as I can see, nearly all of this burden is carried by the householders and small business men. Railways and other big coal users buy their supplies on yearly contract and, because of the volume of their purchases,

are able to buy at the lowest prices. In many cases they get their entire requirements at the cost of production or even less. It would follow, therefore, that the major part of any profit which the operators make must be obtained from their sales to the smaller purchasers. These are the retail dealers and the small industrial consumers. The retailers buy the most of their coal in the fall and winter, at a time when demand is greatest and the price is highest. Moreover, the retailers and the small industrial consumers not protected by contract are the purchasers who have to pay the high mine prices that result from car shortages, strikes, cold waves, etc. The retailers pass their higher prices on to their customers, chiefly householders. Consequently, the cost of the present wasteful methods of conducting the bituminous coal industry seems to fall on the smaller business enterprises, the general consumers, and the poorer people who can least afford such burdens.

Financial writers strongly criticise the financial condition of the bituminous coal mine operators. They state that their credit is far from good and that banks hesitate to make them adequate loans. Dozens of operating companies have been or are in the hands of receivers, and many others appear to have been existing only on the sufferance of their creditors. In fact, I am informed that the list of dividend payers is chiefly remarkable for its brevity and the list of the unprofitable is conspicuous by its length.

This is a situation that merits the fullest investigation. Unsound financial conditions of bituminous coal mine operators are a matter of concern to the general public. It may seem that none but investors in bituminous coal properties are affected by their financial difficulties. But any general financial instability in this industry necessarily affects directly or indirectly every other business in the country which is dependent on it for coal. If such a condition exists in a basic industry like this, it is a constant weakness in our business fabric and a source of danger to the financial steadiness of the nation as a whole.

In some degree the difficulties of the bituminous coal industry are due to the faulty business methods of the mine operators. Many do not have accurate cost accounting systems and the greater number do not make proper charges for the depreciation of mining equipment or for the depletion of coal lands. Manifestly when such companies quote prices they do not really know whether they are making a profit or suffering a loss. Moreover, many companies fail to allow for the constant increase in the cost of mining coal which necessarily results from the extension of the mine workings. When the mines are first opened and the coal is being taken from ground near the openings, haulage, drainage, ventilation, and upkeep costs are all at a minimum. But as the workings are pushed out farther from the openings, the coal must be hauled farther underground, more water must be

pumped, more power must be used for ventilation, more men must be employed in caring for the haulage, pumping, and ventilating systems. Consequently costs must rise regardless of whether wages increase or not. Most mining companies, however, do not take this fact sufficiently into account. Suppose they begin quoting prices on the basis of their low initial costs. In this period they will have an advantage over older companies with higher costs, will usually be able to get a good business, and ordinarily can make some profit. As their own costs go up, however, their profits will vanish, they must increase their prices or endure losses, and they find that they in turn are now suffering from the competition of new companies with lower costs that undersell them. If the mining companies do not make proper allowance for this natural increase in their costs, and from the beginning of their business make their prices with this fact in mind, they must expect to suffer the financial hardships that usually overtake the short-sighted man in any business.

The presence of inefficiencies on such large scale is an indication of serious trouble in an industry. But the first question in seeking a remedy is, What can the patient do for himself? Undoubtedly, better business methods on the part of individual operators, accurate cost accounting systems, and price-making policies that have a sensible regard for the inevitable rise in costs as the mines develop, can effect much improvement. It should be plain, however, that if the

present wastes and inefficiencies of the industry are to be eliminated there must be much more coöperation and concerted action among the operators than now exists, coupled with effective Federal coöperation.

One of the most helpful ways in which improvement in cost accounting can be effected is through the study and establishment of uniform methods of cost accounting by associations of operators in different districts, or even in the industry as a whole. This would make it certain that the operators could quote prices intelligently and on an accurate and scientific basis, instead of ignorantly and on a variety of bases, many of them inaccurate. Such uniform, systematic and scientific methods of cost accounting have been adopted with marked success by cartels in various industries in Germany. By this means the cartel officials have been able to distribute the running expenses of the cartel in an equitable manner among the members, to know precisely the efficiency of their operations, and to conduct the business of the cartel with the minimum loss and waste of labor, time, and materials. As a rule this work is supervised or directed by a central selling agency. Frequently special comptrollers or "revision officials" visit the plants of the members and make sure that all coöperate on the same basis, so that the entire cartel operates as a unit.

In the United States uniform cost accounting is being taken up in a few fields by associations of mine

operators. These systems are being worked out on a scientific basis, with proper depletion and depreciation charges, and where adopted will insure a much more intelligent conduct of the business.

While faulty business methods may be the reason for some objectionable conditions in the bituminous coal mining business, many of the operators themselves hold that the primary cause of the waste and inefficiencies described is unrestricted competition in the industry. Let me state their analysis of the situation. In brief it is this: Under severe competition, and with an ever-present potential overproduction depressing the market, the price of bituminous coal at the mines tends to be established on the lowest cost of production. At first sight this may seem wholly desirable since it means cheap coal for the consumer. But this lowest cost of production, though sometimes obtained by highly efficient methods of mining, is too often obtained by mining only the coal which can be taken out most cheaply and abandoning all the rest, by skimping on the installation of safety devices and risking accidents and explosions, by cutting depreciation and depletion charges to the minimum or wholly disregarding them, by considering only the low initial cost of mining and not the later higher costs—in short, by all the objectionable tactics which lead to inefficiency and waste of coal and human life. Thus they believe that unrestricted competition places a premium on inefficiency, waste of the natural resource, and disregard of life, and puts it beyond the

power of the operators to effect their own cure. They believe collective action by the operators with constructive aid and regulation by the government is necessary. With this analysis and view labor organizations in the industry agree.

This is a significant situation. It makes it imperative to establish the facts by the most thoroughgoing investigation and then to take what action the public interest requires. In case it is proved that competition cannot be depended on as a regulator of this industry but that the principle of Federal regulation must be adopted, many questions of ways and means of remedying conditions will arise.

Coöperation among the bituminous coal producers could be applied to many phases of the industry, with advantage to the business and to the public in eliminating existing inefficient methods. Thus in the operation of the mines numerous economies could be effected if the coal from each district were handled through a joint selling agency. This would permit the better study of market conditions. Orders could be apportioned so that the mines could run more regularly, and the surplus labor force now maintained at each mine could be cut down. Marketing territory could be divided and arranged so that there would be less waste in the shipping and handling of coal. Some bituminous coals which are now consumed in large quantities cannot be stored long on top of the ground in the open. To be mined and stocked in the summer for use during the winter, they must be stored under

water. Coöperation of the operating companies in joint selling agencies would enable such agencies to install under-water storage near such markets as Chicago. This would do away with the recurrent bituminous coal shortages during the winter, and at the same time would equalize the production during summer and winter, so that the public could be better served, the men could be employed regularly the year round, and the mines could be operated more efficiently and cheaply.

Much could also be done in the way of standardizing the grades and qualities of bituminous coals handled by such agencies. This would necessitate uniform inspection of the product by employes of the agencies, but this could be done to the mutual advantage of the producer and consumer.

While such coöperation would solve many of the difficulties of the industry, it necessarily presupposes strict Federal regulation of the coöperating concerns. Such regulation would be required in order to safeguard the public against improper prices for coal. No condition should be created in which the mining companies could exact unduly high prices for their product from the consumer. The sole purpose of coöperation should be to eliminate the waste of the industry as now conducted and to relieve the consumers of the burden of this waste and inefficiency. Federal regulation should see to it that the coöperation of the mining companies is directed to this end.

There should also be effective governmental control of the opening of mines and of the methods of working them. This might be difficult to accomplish because of constitutional questions involved, but so far as possible it ought to be obtained.* Such regulation would prevent the opening of mines for which there was no need, and would prevent land speculators from "booming" distant bituminous coal fields which ought to be conserved as supplies of coal for the future. Federal regulation should also extend to the method of operating the mines, in order to make certain that safety devices shall be installed and to require that the mines shall be so managed as to decrease accidents and casualties. It should also increase the percentage of coal recovered and, in conjunction with the coöperation among the operators, should tend to reduce to a minimum the great annual waste of coal.

These suggestions presuppose a frank recognition of the fact that in this major industry unrestricted competition leads to the waste of a great natural resource, to the mismanagement of labor, and to the financial embarrassment of the operators, rather

*A solution of the difficulty might possibly be found in the police power. See *Noble State Bank v. Haskell*, 219 U. S. 104. This opinion says: The police power "may be put forth in aid of what is sanctioned by usage, or held by the prevailing morality or strong and preponderant opinion to be greatly and immediately necessary to the public welfare. Among matters of that sort probably few would doubt that both usage and preponderant opinion give their sanction to enforcing the primary conditions of successful commerce."

than to the efficient conduct of the business. They assume that this condition is not to the real interest of the public and that in some degree at least it should be modified through coöperation among the operating companies, coupled with effective Federal regulating of such coöperation and of the production and distribution of coal, to safeguard the interests of the operators, the employes, and the public.

While there are fundamental differences between the bituminous coal industry in Germany and in the United States, it may be suggestive to consider briefly the organization of the industry in the former. Nearly the entire coal production of Germany is controlled by two large cartels—the Rhenish-Westphalian Coal Cartel and the Upper Silesian Coal Convention. The former comprises sixty-seven concerns and controls about 75 per cent. of the total annual export of coal from Germany. In Rhenish-Westphalia, the leading industrial district of Germany, where the greater part of the large iron and steel plants are located, the cartel controls approximately 90 per cent. of the total coal production. All coal sales of the cartel are made through a joint selling agency called the Coal Syndicate. This syndicate is controlled by the cartel. It is said that this is the most powerful and efficiently organized cartel in Germany. Both the public and the German Government seem to be satisfied that it has not abused its power and that its policies are on the whole not contrary to the public interest. The gov-

ernment recognizes that the cartel through its rigid and efficient business organization, has proved a rock of strength in periods of business depression and commercial crisis, and concedes that it has brought order, stability, and efficiency into the German coal business. Not long ago, when the cartel agreement was about to expire, some of the larger members were disposed not to renew it. The Imperial Federal Council intervened and enforced the renewal of the agreement until March 31, 1917. The government openly states that a dissolution of the cartel would result in the disorganization of the coal business of Germany, would seriously affect labor conditions, and bring about ruinous price-cutting and destructive competition.

Fair, intelligent competition is properly considered by the American public as the best regulator of business. But when competition produces waste and results in demoralization, when competition breaks down, another method of regulating business must be devised. Price fixing and monopoly as means of regulating business have been discredited and discarded. But if an industry is inefficient through unrestricted competition, the government cannot consistently insist upon the enforcement of the Sherman Law and at the same time refuse its active constructive aid. When competition fails to regulate, the government must step in and regulate.

IN CONCLUSION

BOTH public and private effort should be united in the work of perfecting American business. Material prosperity is vitally connected with the happiness of all—business men, employes, and general public. If business is unhealthy or sick, we all suffer and sooner or later we pay the price.

Before the really big work of perfecting American business can be done there must be a change of heart on the part of both business men and those public men placed by the people in charge of government. Business men on their part must cease to look to immediate profits at the expense of the soundness of their business. They need and must have a more comprehensive view of business; they must look at their business in the light of its self-perpetuation and future strength and also in its relation to the other members of the same industry. Government on its part must abandon the attitude of the policeman and become the sympathetic, constructive counsellor of American business life.

Private initiative must continue to be the great motive force of business. Business men must aid themselves. They should scrap forever unsound

business methods and all adopt methods which are thorough—which will enable them at any time to know the exact condition of their business. The element of guess, wherever it exists, must go. Cost accounting must be accurate and detailed enough to permit an intelligent pricing of goods. Financial statements must be honest. System must prevail throughout our manufacturing and merchandising establishments. Waste of materials and labor must stop in every stage of production and marketing. The need of better methods is evidenced by the eagerness with which thousands of progressive business men are seeking light on this subject.

Having put their own houses in order, business men must get together. Shying bricks at each other across the street does not belong to the new era of American business. No business can go far toward true success if suspicion and fear are the impulses which govern its members. Trade associations are the machinery of coöperation. Through them ignorant competition can be destroyed to a large extent merely by throwing light upon it, and the basis upon which business is conducted can be generally made more intelligent. The best way to cure some sores is not to cover them up but to cut them out, and business men working together in trade associations can, as a rule, perform such operations with less difficulty than any one else. Trade associations are, in a way which we do not yet appreciate in this country, the means of salvation for American

business. In a thousand ways they can help to lift American business to a higher plane of efficiency.

Another field which American business men can develop by means of coöperation is foreign trade. It offers fair profits and a sure method of stabilizing domestic business. In foreign trade our business men face the competition of the keenest men of other nations, and coöperation in this struggle will teach them not only the value, but the necessity of both efficiency and coöperation. The development of American foreign trade is not only a privilege, but a duty of American business men. It is a field in which national wealth and prestige can be increased. Here inefficiency and quarreling among ourselves mean national disgrace. We do not realize how much the conduct of our merchants affects the standing of America beyond our shores.

There are some big tasks which cannot be done by business men, either individually or collectively. Government alone is adequate to undertake them, and it must leave its position of seclusion—get away from its negative, watch-dog frame of mind—and take a hand actively in these big tasks.

Government's first duty is to make business fair. In the great majority of business enterprises, if competition is fair, competition will take care of the interests of the consumer and business man alike. Government's second duty is to give business the information that will enable it to act intelligently. Competition cannot be fair unless it is intelligent.

Government is by far the best agency to collect and distribute the information which will give those seeking sound investments a comprehensive knowledge of the state of our industries. It is the duty of government, through the exercise of its function of disseminating summarized information and analyzing economic conditions, to give business men a comprehensive view of their industries so that they may take measures to cure their trouble. For when a business ruins itself through ignorance of true conditions not it alone but its competitors and the general public are bound to suffer.

Finally in those exceptional cases where competition fails to regulate and produce beneficial results it is the duty of government, in behalf of the public, to step in and establish some form of governmental regulation. When conditions of grave demoralizations arise in business, whether in relation to prices or to public welfare, men instinctively appeal to government for counsel and for some agency of relief. The experience of other countries has shown that it is sometimes beneficial, not only to business men but to the public, to restrict or even eliminate competition entirely, and in such cases organizations for the purpose of controlling the market have been operated with great success under the strict control and regulation of government.

Business common sense requires us to carry on our affairs scientifically and to work together to accomplish an end admitted to be for the good of all.

This work means on the part of business men effort and self-restraint, and on the part of government a sympathetic, constructive policy. It means the elimination of slipshod, dishonest business and it means the active coöperation of business men with each other and of government with business men. It means that each of us has a duty to assist in the perfecting of American business.

AWAKENING OF BUSINESS
APPENDICES

APPENDIX I

FEDERAL TRADE COMMISSION ACT

[PUBLIC—NO. 203—63D CONGRESS]

[H. R. 15613.] An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the commission), which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. The commission shall choose a chairman from its own membership. No commissioner shall engage in any other business, vocation, or employment. Any commis-

sioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

The commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each commissioner shall receive a salary of \$10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. The commission shall appoint a secretary, who shall receive a salary of \$5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks, and other employes as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the commission may from time to time find necessary for the conduct of its work, all employes of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the commission and by the Civil Service Commission.

All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employes under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commission.

Until otherwise provided by law, the commission may rent suitable offices for its use.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the commission.

SEC. 3. That upon the organization of the commission and election of its chairman, the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist; and all pending investigations and proceedings of the Bureau of Corporations shall be continued by the commission.

All clerks and employes of the said bureau shall be transferred to and become clerks and employes of the commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau, including any allotment already made to it by the Secretary of Commerce from the contingent appropriation for the Department of Commerce for the fiscal year nineteen hundred and fifteen, or from the departmental printing fund for the fiscal year nineteen hundred and fifteen, shall become funds and appropriations available to be expended by the commission in the exercise of the powers, authority, and duties conferred on it by this Act.

The principal office of the commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The commission may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

SEC. 4. That the words defined in this section shall have the following meaning when found in this Act, to wit:

“Commerce” means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

“Corporation” means any company or association incorporated or unincorporated, which is organized to carry on business for profit and has shares of capital or capital stock, and any company or association, incorporated or unincorporated, without shares of capital or capital stock, except partnerships, which is organized to carry on business for its own profit or that of its members.

“Documentary evidence” means all documents, papers, and correspondence in existence at and after the passage of this Act.

“Acts to regulate commerce” means the Act entitled “An Act to regulate commerce,” approved February fourteenth, eighteen hundred and eighty-seven, and all Acts amendatory thereof and supplementary thereto.

“Antitrust acts” means the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July second, eighteen hundred and ninety; also the sections seventy-three to seventy-seven, inclusive, of an Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes,” approved August twenty-seventh, eighteen hundred and ninety-four; and also the Act entitled “An Act

to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved February twelfth, nineteen hundred and thirteen.

SEC. 5. That unfair methods of competition in commerce are hereby declared unlawful.

The commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, and common carriers subject to the Acts to regulate commerce, from using unfair methods of competition in commerce.

Whenever the commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in commerce, and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the commission, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed

in the office of the commission. If upon such hearing the commission shall be of the opinion that the method of competition in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

If such person, partnership, or corporation fails or neglects to obey such order of the commission while the same is in effect, the commission may apply to the circuit court of appeals of the United States, within any circuit where the method of competition in question was used or where such person, partnership, or corporation resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, partnership, or corporation and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of

the commission. The findings of the commission as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may order such additional evidence to be taken before the commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by testimony, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the commission to cease and desist from using such method of competition may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the commission be set aside. A copy of such petition shall be forthwith served upon the commission, and thereupon the commission forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the commission as in

the case of an application by the commission for the enforcement of its order, and the findings of the commission as to the facts, if supported by testimony, shall in like manner be conclusive.

The jurisdiction of the circuit court of appeals of the United States to enforce, set aside, or modify orders of the commission shall be exclusive.

Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the commission or judgment of the court to enforce the same shall in any wise relieve or absolve any person, partnership, or corporation from any liability under the antitrust Acts.

Complaints, orders, and other processes of the commission under this section may be served by anyone duly authorized by the commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation; or (c) by registering and mailing a copy thereof addressed to such person, partnership, or corporation at his or its principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

SEC. 6. That the commission shall also have power—

(a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

(b) To require, by general or special orders, corporations engaged in commerce, excepting banks, and common carriers subject to the Act to regulate commerce, or any class of them, or any of them, respectively, to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by the commission.

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust Acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney-General it shall be its duty to make such investigation. It

shall transmit to the Attorney-General a report embodying its findings and recommendations as a result of any such investigation, and the report shall be made public in the discretion of the commission.

(d) Upon the direction of the President or either House of Congress to investigate and report the facts relating to any alleged violations of the anti-trust Acts by any corporation.

(e) Upon the application of the Attorney-General to investigate and make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust Acts in order that the corporation may thereafter maintain its organization, management, and conduct of business in accordance with law.

(f) To make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

(g) From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this Act.

(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.

SEC. 7. That in any suit in equity brought by or

under the direction of the Attorney-General as provided in the antitrust Acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rule of procedure as the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

SEC. 8. That the several departments and bureaus of the Government when directed by the President shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this Act, and shall detail from time to time such officials and employees to the commission as he may direct.

SEC. 9. That for the purposes of this Act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths

and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the Attorney-General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof.

The commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be

subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it: *Provided*, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court

of competent jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by this Act to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which

forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney-General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employe of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 11. Nothing contained in this Act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust Acts or the Acts to regulate commerce, nor shall anything contained in the Act be construed to alter, modify, or repeal the said antitrust Acts or the Acts to regulate commerce or any part or parts thereof.

Approved, September 26, 1914.

APPENDIX II

PROVISIONS OF THE CLAYTON ACT WHICH CONCERN THE FEDERAL TRADE COMMISSION

[PUBLIC—NO. 212—63D CONGRESS]

[H. R. 15657.] An Act To supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That "antitrust laws," as used herein, includes the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety; sections seventy-three to seventy-seven, inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," of August twenty-seventh, eighteen hundred and ninety-four; an Act entitled "An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February twelfth, nineteen hundred and thirteen; and also this Act.

"Commerce," as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any

Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided*, That nothing in this Act contained shall apply to the Philippine Islands.

The word "person" or "persons" wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

SEC. 2. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: *Provided*, That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of selling or transportation, or discrimination in price in the same or different communities made in good

faith to meet competition: *And provided further,* That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

SEC. 3. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies or other commodities, whether patented or unpatented, for use, consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

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SEC. 7. That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any

section or community, or tend to create a monopoly of any line of commerce.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, may be to substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch

or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other such common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the anti-trust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

SEC. 8.

That from and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them

would constitute a violation of any of the provisions of any of the antitrust Laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employe of any bank or other corporation subject to the provisions of this Act is eligible at the time of his election or selection to act for such bank or other corporation in such capacity his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

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SEC. 11. That authority to enforce compliance with sections two, three, seven and eight of this Act by the persons respectively subject thereto is hereby vested: in the Interstate Commerce Commission where applicable to common carriers, in the Federal Reserve Board where applicable to banks, banking associations and trust companies, and in the Federal Trade Commission where applicable to all other character of commerce, to be exercised as follows:

Whenever the commission or board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections two, three, seven and eight of this Act, it shall issue and serve upon such person a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission or board requiring such person to cease and desist from the violation of the law so charged in said complaint. Any person may make application, and upon good cause shown may be allowed by the commission or board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission or board. If upon such hearing the commission or board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock held or rid itself of the directors chosen contrary to the provisions of sections seven and eight of this Act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission or board may at any time, upon such notice and in such manner

as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

If such person fails or neglects to obey such order of the commission or board while the same is in effect, the commission or board may apply to the circuit court of appeals of the United States, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission or board. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission or board. The findings of the commission or board as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission or board, the court may order such additional evidence to be taken before the commission or board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission or board may modify its findings as to the facts, or

make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by testimony, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the commission or board to cease and desist from a violation charged may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the commission or board be set aside. A copy of such petition shall be forthwith served upon the commission or board, and thereupon the commission or board forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the commission or board as in the case of an application by the commission or board for the enforcement of its order, and the findings of the commission or board as to the facts, if supported by testimony, shall in like manner be conclusive.

The jurisdiction of the circuit court of appeals of the United States to enforce, set aside, or modify orders of the commission or board shall be exclusive.

Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the commission or board or the judgment of the court to enforce the same shall in any wise relieve

or absolve any person from any liability under the antitrust Acts.

Complaints, orders, and other processes of the commission or board under this section may be served by anyone duly authorized by the commission or board, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person; or (c) by registering and mailing a copy thereof addressed to such person at his principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

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SEC. 26. If any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Approved, October 15, 1914.

APPENDIX III

LETTER OF F. W. LEHMANN TO GEORGE K. SMITH,
SECRETARY, YELLOW PINE MANUFACTURERS'
ASSOCIATIONS

[Letterhead of Lehmann & Lehmann, Attorneys]
St. Louis, Mo., April 8, 1909.

MR. GEORGE K. SMITH, Esq.,
St. Louis, Missouri.

Dear Sir: I have given due consideration to the matters we talked about on Tuesday and have found no occasion to change the opinion then expressed.

You have the undoubted right to collect and distribute the fullest information you can get of what is being done in the lumber field, with all details as to the amount of production from day to day, the stock on hand, prices asked and received, etc., and every man who receives this information has the right to act upon it as he thinks proper. If he thinks more is being produced than can be sold, he can reduce the amount of his cutting or cease cutting altogether if he chooses, until conditions improve.

Beyond this, however, you cannot go. There can be no agreement or understanding between two or more lumbermen to limit their production and therefore no course of conduct from which such an agreement or understanding could be inferred by a court or a jury.

If some man should go from one lumberman to an-

other getting from each a statement or a promise that he would limit his output in the future and what each man thus said or promised was communicated to the others and if this were followed by a limitation of the output, a court or jury would be very likely to infer, despite all protestations to the contrary, that the limitation of output was the result of an agreement or understanding.

So, too, if one lumberman after another declares that he will hereafter curtail his production and they inform each other of this purpose and then they act in accordance with their declarations, a court or jury would be very likely to infer that this was all in pursuance of an agreement or understanding.

What is in fact being done, each and all have a right to know. This is no more than is done every day by the market reports in our daily newspapers. They show, for example, the daily receipts of grain and live stock, the prices received, information as to visible supply, etc., and farmers individually govern themselves accordingly. The man not pressed for money does not ship his grain or live stock to a glutted market. The lumberman may undoubtedly get like information as to his business and may determine his conduct by it.

But the action based upon this information must be individual and independent. If he concludes for himself that the market is overloaded and that he cannot produce at a profit, he may curtail or cease producing altogether and for as long a time as he pleases, but if he concludes that he will continue as he is doing, unless his competitors will also curtail or cease production, and there is a curtailment or cessation as the result of any sort of preconcert, agreement, or understanding, the law is violated.

The conditions of the trade however bad; the price of lumber however low; the persistence of lumbermen in cutting an amount above the market demands, will not legalize an agreement among any number of them to limit the output of their commodity or to fix the price of it. The policy of the law is free competition and it plainly requires that each producer shall conduct his business independently of any compact with his competitors. This does not prohibit any producer from taking into account all the conditions of business in determining his own conduct, and it does not forbid coöperation for the purpose of obtaining information that is useful to each and to all.

I repeat, however, that beyond the collection and distribution of information as to what is being done, you cannot go, and cannot state too strongly that any agreement or understanding, no matter how indirect the means by which it is brought about, falls under the ban of the law.

Respectfully yours,

F. W. LEHMANN.

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